

Exhibit 20

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
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5
6 ESTHER WILDER,)
7)
8 Plaintiff,)
9 vs.) Civ Action No.
10) 1:22-cv-01254-PKC
11 SARAH HOILAND,)
12 Defendant.)
13 -----)
14
15 DEPOSITION OF SARAH HOILAND
16 Remote via Zoom
17 New York, New York
18 Friday, December 9, 2022
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22
23
24 Reported by:
25 Frank J. Bas, RPR, CRR
25 Job No. 220543

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4
5 December 9, 2022

6 10:02 a.m. EDT

7
8 Remote Deposition of SARAH HOILAND,
9 pursuant to Notice, before Frank J. Bas, a
10 Registered Professional Reporter, Certified
11 Realtime Reporter, and Notary Public of the
12 State of New York.

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2 A P P E A R A N C E S:

3 (All attendees appearing via videoconference
4 and/or teleconference due to COVID-19
5 restrictions):

6

7 TARTER KRINSKY & DROGIN LLP

8 Attorneys for Plaintiff

9 1350 Broadway

10 New York, New York 10018

11 BY: JANET LINN, ESQ.

12 SANDRA HUDAK, ESQ.

13

14 DAVIS & GILBERT LLP

15 Attorneys for Defendant

16 1675 Broadway

17 New York, New York 10019

18 BY: DANIELLE ZOLOT, ESQ.

19

20

21 ALSO PRESENT:

22 ESTHER WILDER

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- 000 -

1 S. Hoiland

2 THE COURT REPORTER: Good morning,
3 counselors. My name is Frank Bas. I am
4 a certified court reporter working in
5 association with TSG Reporting, Inc.

6 Due to the severity of COVID-19 and
7 following the practice of social
8 distancing, I will not be in the same
9 room with the witness. Instead, I will
10 be reporting remotely and will swear in
11 the witness remotely.

12 Do all parties stipulate to the
13 validity of the remote reporting and
14 remote swearing and that it will be
15 admissible in the courtroom as if it had
16 been taken following Rule 30 of the
17 Federal Rules of Civil Procedure and/or
18 the state's rules where this case is
19 pending?

20 ATTORNEY HUDAQ: Plaintiff
21 consents.

22 ATTORNEY ZOLOT: Yes, defendant as
23 well.

24 THE COURT REPORTER: Could counsel
25 just state their appearances?

1 S. Hoiland

2 ATTORNEY HUDAK: This is Sandra
3 Hudak of Tarter Krinsky & Drogan on
4 behalf of the plaintiff Esther Wilder
5 and I'm joined by my colleague Janet
6 Linn. And the plaintiff is also
7 present.

8 ATTORNEY ZOLOT: Good morning. I'm
9 Danielle Zolot with Davis & Gilbert LLP
10 defending the witness, Sarah Hoiland,
11 the defendant in the litigation.

12 - - -

13

14 SARAH HOILAND,
15 called as a witness, having been first duly
16 sworn, was examined and testified
17 as follows:

18 EXAMINATION BY

19 ATTORNEY HUDAK:

20 Q. Good morning again, Dr. Hoiland.
21 We have spoken before but just as a reminder
22 my name is Sandra Hudak and I'm one of the
23 attorneys for plaintiff in this action. Can
24 you please state your full name and residence
25 for the record?

1 S. Hoiland

2 A. Sarah Louis Hoiland. Residence is
3 79 Hamilton Place, Apartment 10, New York,
4 New York 10031.

5 Q. Thank you. And is that where you
6 are currently located at your residence?

7 A. No, I'm located at my attorneys
8 office.

9 Q. Okay. And just for a clear record,
10 do you happen to know the address or the name
11 of the law firm? Is it Davis & Gilbert?

12 A. Davis & Gilbert. I think it's 1675
13 Broadway.

14 Q. All right. Thank you. And is
15 there anyone else in the room with you?

16 A. No.

17 Q. Okay. Thanks for taking the time
18 to do this remotely. If at any point the
19 video or the audio drops out please just let
20 us know so we can fix whatever technical
21 issues we have. Just so you know I'm already
22 hearing a little bit of an audio lag so
23 hopefully we don't have any issues and if we
24 do we can get those quickly fixed.

25 Have you had your deposition taken

1 S. Hoiland

2 in the past?

3 A. No.

4 Q. And I understand that you observed
5 the deposition of the plaintiff in this case
6 earlier this week, is that correct?

7 A. Yes.

8 Q. So you are aware that the general
9 process is that I'll be asking you some
10 questions and the court reporter will take
11 down your answers?

12 A. Yes.

13 Q. Do you understand that you're under
14 oath?

15 A. Yes.

16 Q. And what does that oath mean to
17 you?

18 A. The oath means that I will tell the
19 truth.

20 THE COURT REPORTER: Can we go off
21 the record?

22 ATTORNEY HUDAK: Yes.

23 (Pause in proceedings.)

24 ATTORNEY HUDAK: Back on the record
25 after a short technical break.

1 S. Hoiland

2 Q. So Dr. Hoiland, I believe when we
3 left off the question was do you understand
4 that you're under oath, and you might have
5 answered but I didn't hear the answer, so --

6 A. Yes.

7 Q. -- if you can answer that? Okay.
8 And what does that oath mean to you?

9 A. The oath means that I will tell the
10 truth.

11 Q. So again I am going to be asking
12 you a series of questions. If you do not
13 understand my question I want you to tell me
14 and I'll do my best to clarify. I'm going to
15 assume that you understand the questions that
16 I ask you unless you tell me that you don't
17 understand them. Is that fair?

18 A. Yes.

19 Q. Your counsel may object to some of
20 my questions but you still need to answer
21 unless your counsel instructs you not to.

22 Understood?

23 A. Yes.

24 Q. Also since the court reporter is
25 taking a verbatim transcript please give

1 S. Hoiland

2 audible responses rather than for example,
3 nodding your head or saying uh-huh. Is that
4 okay?

5 A. Yes.

6 Q. And for the same reason please wait
7 until I am finished asking the question before
8 speaking so we're not speaking over each other
9 and I'll try to do the same. Is that okay?

10 A. Yes.

11 Q. If you need a break just let me
12 know. However if there's a question pending I
13 would ask that we finish the question before
14 taking a break.

15 Is there any reason today that you
16 would not be able to provide truthful and
17 complete testimony?

18 A. No.

19 Q. Are you on any medications that
20 would interfere with your ability to provide
21 complete and truthful testimony today?

22 A. No.

23 Q. And are there any health issues
24 that would interfere with your ability to
25 provide complete and truthful testimony today?

1 S. Hoiland

2 A. No.

3 Q. Do you know why you are here today?

4 A. Yes.

5 Q. And why is that?

6 A. I am being charged with copyright
7 infringement.

8 Q. And the person who has brought the
9 case, the plaintiff in the case is Esther
10 Wilder, is that correct?

11 A. Yes.

12 Q. And I may refer to her as
13 Dr. Wilder or the plaintiff. Is that okay?

14 A. Yes.

15 Q. All right. And did you prepare for
16 today's deposition?

17 A. Yes.

18 Q. What did you do?

19 A. I spoke with counsel.

20 Q. Approximately for how long?

21 A. I would say three hours.

22 Q. On a single day?

23 A. On a single day.

24 Q. And when was that?

25 A. Yesterday.

1 S. Hoiland

2 Q. And did you speak with anybody else
3 about the deposition today?

4 THE COURT REPORTER: I think you
5 broke up.

6 ATTORNEY HUDAK: Sorry about that.

7 Q. The question was did you speak with
8 anybody else about the deposition today?

9 A. Other than letting a few family and
10 friends know that it was occurring, no.

11 Q. All right. Dr. Hoiland, you said
12 that you spoke to some friends about the
13 deposition today. Which friends were those?

14 A. So I have a group of friends. Do
15 you want them by name?

16 Q. Are any of these friends
17 colleagues?

18 A. Yes. Three are colleagues.

19 Q. Yes. So if you could identify the
20 names of the colleagues?

21 A. Sure. Dr. Ria Banerjee. Dr. Megan
22 Behrent. Dr. Julia Rossi.

23 Q. And what was the nature of your
24 discussions with them?

25 A. I just told them I had the

1 S. Hoiland

2 deposition.

3 Q. Any other details?

4 A. No.

5 Q. And did you review any materials to
6 prepare for today's deposition?

7 A. I went through a few of the
8 documents that were produced with my
9 attorneys.

10 Q. Any other documents?

11 A. The request for admission. The
12 interrogatories. I believe that's it.

13 Q. Other than the documents that were
14 produced in this case or served as discovery
15 requests you did not review any other
16 materials, is that correct?

17 A. No.

18 Q. And did you bring anything with you
19 today, any documents or materials?

20 A. No.

21 Q. Do you have anything open in front
22 of you?

23 A. No.

24 Q. Any applications open other than
25 this Zoom session?

1 S. Hoiland

2 A. No.

3 Q. Let's just go over your background
4 briefly, starting with what you did after high
5 school. So did you go to college?

6 A. I went to college. I went to
7 Gonzaga University from 1997 until 2001. And
8 then I worked for a year, and I deferred law
9 school. And then I went to the University of
10 San Francisco School of Law for one year. And
11 I intended to transfer as a joint JD/MA to The
12 New School in New York City in Cardozo and I
13 ended up finishing the MA and going into a
14 Ph.D. program at The New School.

15 Q. Let's just back up a bit. So you
16 said that you went to college from 1997 to
17 2001. Did you graduate in 2001?

18 A. Yes.

19 Q. And what was your degree?

20 A. I had a -- I earned a bachelor's
21 degree in sociology and criminal justice.

22 Q. And then you said you worked for a
23 year. Where did you work?

24 A. I worked for the YMCA of Greater
25 Seattle as a treatment foster care worker.

1 S. Hoiland

2 And I also worked part-time at a group home in
3 Seattle.

4 Q. And then you said that you went to
5 law school for a year, but instead you
6 transferred to obtaining your masters, is that
7 correct?

8 A. I completed one year of law school
9 in good standing and so I considered first
10 doing a joint MA/JD because I wanted to do
11 more with sociology, so one of my professors
12 recommended looking for a joint degree and the
13 University of San Francisco did not have that.
14 So I relocated to New York and started the
15 masters program.

16 Q. And what field was the masters
17 program in?

18 A. Sociology.

19 Q. And did you graduate from that
20 masters program?

21 A. Yes.

22 Q. And what year was that?

23 A. 2007.

24 Q. And you said before that you
25 started into a Ph.D. program. Did you start

1 S. Hoiland

2 immediately after graduation from your masters
3 program?

4 A. I believe there were six months
5 between. But yes, almost directly into the
6 Ph.D.

7 Q. And what university was the Ph.D.
8 program at?

9 A. The New School For Social Research.

10 Q. And what field was the Ph.D. for?

11 A. Sociology.

12 Q. And did you complete the Ph.D.
13 program?

14 A. Yes, I did.

15 Q. And what year was that?

16 A. The degree was conferred in January
17 of 2013. Excuse me. 2012.

18 Q. And what did you do after
19 completing the Ph.D. program?

20 A. Well, I was already employed and at
21 that time I was tenured as a professor at Polk
22 State College, and so I continued to work
23 there for another year.

24 Q. And when did you begin working at
25 Polk State college?

1 S. Hoiland

2 A. 2008.

3 Q. So you said you worked there from
4 2008 to 2012, is that correct?

5 A. 2008 to 2013. My degree was
6 conferred in 2012.

7 Q. All right. And then what did you
8 do starting in 2013 after leaving Polk State
9 College?

10 A. I became an assistant professor at
11 Hostos Community College in New York.

12 Q. And is that your current employer?

13 A. Yes.

14 Q. And have you continued your
15 employment continuously from 2013 until today?

16 A. Yes.

17 Q. Have you had any other employers
18 during that time period?

19 A. Yes.

20 Q. And what employers were those?

21 A. So I currently teach for Bard
22 College through the Bard prison initiative.

23 Q. And when did you begin working for
24 Bard College?

25 A. I was hired in August of 2021, and

1 S. Hoiland

2 I started my first class fall of 2021.

3 Q. Have you had any other employers
4 between 2013 and today?

5 A. No.

6 Q. You said that you are currently
7 employed by Hostos College, is that correct?

8 A. Yes.

9 Q. What is your title at Hostos
10 College?

11 A. Associate professor.

12 Q. Have you had any other titles at
13 Hostos College?

14 A. Yes. I was hired as an assistant
15 professor.

16 Q. And so you transitioned from an
17 assistant professor to an associate professor,
18 is that correct?

19 A. Yes. I was promoted.

20 Q. And when was that promotion?

21 A. 2020.

22 Q. All right. We spoke before that
23 Dr. Wilder is the plaintiff in this case.

24 When did you meet Dr. Wilder?

25 A. I believe it was 2015.

1 S. Hoiland

2 Q. And how did you meet Dr. Wilder?

3 A. I don't recall exactly how. I know
4 that our early communications were about an
5 article that I was co-authoring with a
6 colleague from Hostos.

7 Q. And did you have continuing
8 conversations after the conversation about
9 this article?

10 A. Yes.

11 Q. And what were those conversations
12 about?

13 A. There were conversations about an
14 ASA panel that I was organizing in Seattle, it
15 could have been 2016.

16 There were conversations about
17 collaborating and submitting a proposal for an
18 NSF grant.

19 Q. Can you please describe the
20 discussions about submitting a proposal for an
21 NSF grant?

22 A. So the timeline on that was pretty
23 short, the discussions around the grant
24 occurred --

25 THE COURT REPORTER: I think she

1 S. Hoiland

2 froze.

3 ATTORNEY HUDAK: Yes, the witness
4 appears to be frozen.

5 THE WITNESS: It's okay now?

6 THE COURT REPORTER: Yes.

7 THE WITNESS: Oh, okay. I'm
8 getting a sign the internet connection
9 is unstable. Okay. So we'll see.

10 A. I just lost my train of thought.

11 Ms. Hudak, could you repeat the question?

12 Q. Sure. We were talking about
13 submitting a proposal for an NSF grant and I
14 asked for some additional details about that.
15 So can you please describe the circumstances
16 of the proposal for an NSF grant?

17 A. Yes. So the deadline was the end
18 of May and Professor Wilder approached myself
19 and a colleague of mine at Hostos. The
20 colleague who worked with me on co-authoring
21 this other article. And, let's see, I'm not
22 sure how much there is to say about that. So
23 we -- the conversations were primarily over
24 email. She had to select one of us to be the
25 PI, our institution would be the home

1 S. Hoiland
2 institution for the grant. And that was about
3 it. It was presented to me that this was a
4 collaborative grant among Hispanic-serving
5 institutions. The goal was to promote
6 quantitative literacy and quantitative
7 reasoning among community college faculty and
8 since I was a communities college faculty
9 member at a Hispanic-serving institution, that
10 she was interested in having me as being a PI
11 on this project.

12 Q. All right. So I believe you
13 testified before that Dr. Wilder approached
14 you regarding a proposal for an NSF grant, is
15 that correct?

16 A. Yes. Myself and another colleague.

17 Q. And so it's fair to say that
18 Dr. Wilder wished to apply for an NSF grant,
19 the NSF grant that she was approaching you
20 about?

21 A. That she wished to apply? Um, I
22 don't know if I can say what she wished. I
23 mean she indicated that she intended to apply.

24 Q. All right. And did Dr. Wilder tell
25 you why she was reaching out to you and your

Page 21

S. Hoiland

2 colleague?

3 A. Yes. For all the reasons I just
4 mentioned. So the specific request for
5 proposals, it was a Dear Colleague letter and
6 one of the requirements was that a
7 Hispanic-serving institution community college
8 be a collaborator on the project.

9 Q. All right. So Dr. Wilder reached
10 out to you because the project that she
11 intended to apply for required someone who
12 worked at a Hispanic serving institution, is
13 that correct? And you worked at a
14 Hispanic-serving institution?

15 A. Yes.

16 ATTORNEY ZOLOT: Object to the
17 form.

18 Q. All right. And at the time that
19 Dr. Wilder approached you did she explain to
20 you what the project would be about?

21 A. Yes.

Q. And what did she explain the project would be about?

24 A. So what I can recall from that
25 time, right? this would have been in 2015, or

1 S. Hoiland

2 2016, right? the conversations were generally
3 about, there was some background on the NICHE
4 project and what that project consisted of,
5 and what she intended the NICE project to be.

6 Q. All right. So you mentioned the
7 NICHE project. What is the NICHE project?

8 A. The NICHE project was a different
9 NSF grant that involved Dr. Wilder and co-PIs
10 from different institutions. It involved
11 quantitative reasoning and quantitative
12 literacy in a faculty development program
13 mostly centered within CUNY and CUNY faculty.

14 Q. Does NICHE stand for something?

15 A. Yes. It stands for the Numeracy
16 Infusion Course For Higher Education.

17 Q. All right. So if we refer to NICHE
18 going forward, we'll be referring to this
19 Numeracy Infusion Course for Higher Education
20 grant on which Dr. Wilder was a PI, is that
21 correct?

22 A. Yes.

23 Q. All right. And so Dr. Wilder
24 explained to you what the project she was
25 approaching you for was a follow-up to the

1 S. Hoiland

2 NICHE project, is that correct?

3 A. I'm not sure if follow-up is the
4 term that I would use. The projects were
5 related.

6 Q. And how were they related?

7 A. Well, so both projects involved
8 faculty development programs. Both projects
9 involved materials that were created for the
10 NICHE project.

11 Q. And how else were they related?

12 A. Well, Esther was involved in a
13 leadership role on both projects.

14 Q. So is it fair to say that the
15 project that Dr. Wilder was approaching you
16 about was an extension of the NICHE project?

17 A. Yes.

18 Q. And what did Dr. Wilder propose
19 your role to be in the project she was
20 approaching you about?

21 A. So my role, as outlined in our
22 proposal, included a lot of different things.
23 It included recruiting faculty. It included
24 working with faculty as they went through the
25 various iterations, the various modules.

1 S. Hoiland

2 Working with several cohorts. Organizing and
3 planning the workshops and the conference, all
4 of which were in person.

5 And then, you know, because I --
6 the way the grant is structured I had my own
7 budget, and so I also was the project manager
8 and director of my budget, which is a lot of
9 administrative work.

10 Q. So did the project that Dr. Wilder
11 reached out to you about, does that project
12 have a name?

13 A. Yes. The name is the Numeracy
14 Infusion For the College Educators project, or
15 the NICE project.

16 Q. Okay. So is it okay to refer to
17 this project as the NICE project?

18 A. Yes.

19 Q. Okay. And you testified before
20 that both the NICHE project and the NICE
21 project involved materials that were developed
22 in the NICHE project, is that correct?

23 A. I'm not --

24 ATTORNEY ZOLOT: Objection.

25 A. -- sure.

1 S. Hoiland

2 THE WITNESS: Sorry.

3 A. I'm not sure if the materials were
4 developed in the NICHE project or before the
5 NICHE project. But they were already
6 developed when the NICE project began.

7 Q. Prior to Dr. Wilder reaching out to
8 you had you heard of the NICHE project?

9 A. No.

10 Q. And so Dr. Wilder reached out to
11 you about applying for an NSF grant for the
12 NICE project, is that correct?

13 A. Yes.

14 Q. What was the process for applying
15 for the NSF grant for the NICE project?

16 A. So the process for applying
17 includes writing a proposal, the proposal has
18 many parts, and working with each campus's
19 grants officer to ensure that they'll sign off
20 on it. So the requirements are that the
21 grant's director signs off on the entire
22 project in order for it to be submitted to
23 NSF. So each campus I believe submits
24 separately.

25 Q. All right. And did Dr. Wilder

1 S. Hoiland

2 draft the initial draft of the grant

3 application for the NICE project?

4 A. Yes.

5 Q. And what happened after that? Did
6 you review this application?

7 A. So I don't have any specific dates,
8 but again this was a proposal in which, there
9 was somewhere between three and four a week to
10 get it all together. And so the time allotted
11 to review what was submitted to me was very
12 short, maybe 48 hours.

13 I recall asking a friend to watch
14 my son for a weekend so that I could devote
15 the entire weekend to the proposal
16 preparation. And I believe that was the
17 weekend before it was due, the holiday
18 weekend, Memorial Day. So I provided feedback
19 and comments and suggestions and worked on the
20 components of the proposal that were specific
21 to my campus.

22 Q. So after the application was
23 prepared it was filed, is that correct?

24 A. Yes.

25 Q. And was the grant awarded for the

1 S. Hoiland

2 NICE project?

3 A. Yes.

4 Q. And after the grant was awarded
5 when did the NICE project begin?

6 A. So we submitted in May and we were
7 notified in I think September by our program
8 officer that it would be funded. There were
9 some questions, there were some changes that
10 needed to be made. And then the money would
11 have been dropped or distributed to each
12 campus in January of the following year. So
13 that would have been 2016. I believe we were
14 notified in 2016 and the money would have --
15 no. 2015 or 2016.

16 Q. All right. And after the money
17 arrived at each campus when did the project
18 start after that?

19 A. Well, the project starts before the
20 money comes. It starts with an IRB
21 application and submission. It starts with
22 doing some groundwork. There were lots of
23 discussions before the official start date.

24 Q. All right. When was the official
25 start date?

1 S. Hoiland

2 A. I believe it was January 1, 20 -- I
3 think it was 2016.

4 Q. All right. And so you mentioned
5 prior to the official start date there was
6 work on an IRB application. What is an IRB
7 application?

8 A. So IRB stands for internal review
9 board. This is required for NSF funding if
10 you're doing research on human subjects.

11 Q. Who drafted the IRB application for
12 the NICE project?

13 A. Dr. Wilder.

14 Q. And you mentioned that there was
15 other groundwork that needed to be done prior
16 to the official start date of the NICE
17 project, is that correct?

18 A. That's correct.

19 Q. And what type of groundwork are you
20 referring to?

21 A. I don't recall. I think we
22 discussed, you know, sort of recruitment.
23 Because the programming was set to begin six
24 months after the grant officially started. So
25 there was a lot of work to be done early in

1 S. Hoiland

2 the grant period. And I think it was 2017 to
3 2019 -- no, I don't know. It was a two-year
4 grant and we had an extension of one year. So
5 I'm not recalling -- if you pull up my CV you
6 can get the date. But I think it was 2016 to
7 2018, and we added a year, which was 2019.

8 Q. Okay. So we're talking about the
9 groundwork that had to be done before the
10 official start date of the NICE project, and I
11 believe you testified that you didn't recall
12 what that groundwork involved, is that
13 correct?

14 A. Primarily the IRB.

15 Q. Was there anything else?

16 A. I don't recall any specific
17 conversations or emails.

18 Q. Were you involved in any other
19 groundwork prior to the start date of the NICE
20 project?

21 A. Could you repeat the question?

22 Q. Were you involved in any of the
23 groundwork prior to the start date of the NICE
24 project?

25 A. Are you referring to the IRB

1 S. Hoiland

2 proposal?

3 Q. If you consider that to be part of
4 the groundwork.

5 A. Yes.

6 Q. I believe that we separated the
7 two, but all right. Other than the IRB
8 application were you involved in any other
9 groundwork prior to the start date of the NICE
10 project?

11 A. I don't recall.

12 Q. And what was your involvement in
13 the IRB application?

14 A. So it was a joint application and I
15 know that I read it and reviewed it, likely
16 made some comments or suggestions. I believe
17 Dr. Wilder submitted it on both of our behalf.
18 But I don't recall.

19 Q. What was your day to day role in
20 the NICE project on the start date of the NICE
21 project?

22 A. Okay. I don't think I missed
23 anything, but you froze for a few seconds,
24 Sandra.

25 So my role on the NICE project in

1 S. Hoiland

2 the early phases was primarily recruiting
3 community college faculty.

4 Q. And how did you go about
5 recruitment?

6 A. So there were official ways that I
7 recruited. We had a flyer, information was
8 sent to my campus and through another
9 community college campus as well as
10 Dr. Wilder's campus, Lehman college. But most
11 of the recruiting was me asking people I knew
12 face to face if they would like to participate
13 in the program and encouraging them to do so.

14 Q. All right. In the early days did
15 your role involve anything other than
16 recruitment?

17 A. There was preparation for our first
18 in-person workshop. The first in-person
19 workshop was at Lehman college.

20 But primarily because the project
21 involved recruiting faculty who would be part
22 of this cohort, my primary duties for the
23 first five months were recruiting faculty.

24 Q. So for the first five months other
25 than recruiting faculty did you perform any

S. Hoiland

2 other tasks for the NICE project?

3 A. I don't recall.

4 Q. All right. And so did your role
5 change at some point from recruiting faculty
6 to something else?

7 ATTORNEY ZOLOT: Object to form.

8 A. Well, so we have a timeline in our
9 proposal that indicates that both PI's role
10 shift throughout the project in terms of where
11 our attention is focused. And so once the
12 summer program began and we had the faculty to
13 fill the cohort, then yes, my role changed.

14 Q. All right. And that role change
15 took place about five months after the
16 official start date of the NICE project?

17 A. We started in June, so six months
18 might be more accurate.

19 Q. All right. And what tasks did you
20 perform starting in June of the first year of
21 the NICE project?

22 A. So as a --

23 ATTORNEY HUDAK: I'm sorry. Hold
24 on. Your counsel just went off video
25 and muted. So I just want to make sure

1 S. Hoiland

2 that she's still there.

3 ATTORNEY ZOLOT: Yes, I was just
4 shutting the door. There was some
5 background noise.

6 ATTORNEY HUDAK: Sorry. You could
7 resume. If you need the question back,
8 let me know.

9 THE WITNESS: Could you repeat the
10 question?

11 ATTORNEY HUDAK: Court reporter,
12 could you read back the last question?

13 THE COURT REPORTER: Yes.

14 (The reporter read back as follows:
15 "Question: And what tasks did you
16 perform starting in June of the first
17 year of the NICE project?")

18 A. So there was an in-person workshop,
19 and there were some logistical and
20 administrative things to prepare for that
21 workshop.

22 Also my role, once the faculty were
23 involved in the cohort, was sort of dual. So
24 I was enrolled in the cohort and completing
25 the materials with the other faculty

1 S. Hoiland
2 participants and at the same time I was
3 leading and guiding and providing feedback to
4 each faculty member on the various tasks that
5 they completed.

6 Q. So when you say that you were
7 completing materials with the other faculty,
8 can you expand on that? What do you mean by
9 that?

10 A. So I was both -- my role on
11 Blackboard was administrator along with
12 Dr. Wilder. So I had back end access to
13 Blackboard. But I was also serving as a
14 participant since I had not gone through the
15 modules prior to the start of the NICE
16 program.

17 Q. When you say going through the
18 modules, what do you mean by that?

19 A. So essentially it's like being both
20 a teacher and a student of the same class.

21 Q. Okay. So about six months into the
22 first year of the NICE project you were
23 participating as a student in the NICE
24 project, is that correct?

25 ATTORNEY ZOLOT: Objection;

1 S. Hoiland

2 mischaracterizes the testimony.

3 A. No, it's not correct. So my
4 primary role was the facilitator of the
5 course, along with Dr. Wilder. So she and I,
6 and at that time it would have been at least
7 two other people, Dr. Frank Wang and our
8 external evaluator Dr. Katherine Rowell, who
9 all provided feedback to the NICE
10 participants. So in terms of time on task, 75
11 percent of my time was as an instructor. 25
12 percent of my time I would estimate was
13 completing materials as a participant. We
14 didn't call them students because they were
15 faculty. So participant is a more accurate
16 term.

17 Q. Understood. So you said that about
18 25 percent of your time was as a participant
19 in the NICE project, is that correct?

20 A. During the time of the course. So
21 the course in the summer I believe was around
22 eight weeks.

23 Q. Okay. And so when you say you were
24 a participant, you mean that you were
25 essentially taking the course that the NICE

1 S. Hoiland

2 project was offering to faculty, is that a
3 correct representation?

4 A. Yes.

5 Q. And then you say that in addition
6 to being a participant in the course you also
7 were a facilitator of the course, is that
8 correct?

9 A. Yes.

10 Q. And what was your role as a
11 facilitator of the course?

12 A. So I just described it, but it's
13 commenting on each faculty participant's work.
14 So if someone were to submit an assignment or
15 a discussion forum post, my role as
16 facilitator was to comment from a
17 facilitator's perspective, not as a peer.

18 Q. And how did you know how to provide
19 comments on the faculty participant in the
20 NICE project while you were also engaged as a
21 participant in the project?

22 A. So I had a pretty robust CV at this
23 point, I had done a lot of faculty workshops,
24 teaching faculty how to do different things.
25 I had been a facilitator of service learning

S. Hoiland

1 workshops and experiential learning workshops
2 for a very long time, well before I came to
3 CUNY, and so I had that experience. And I
4 also had, you know, I would say at that point
5 three years of experience working with
6 quantitative reasoning and quantitative
7 literacy. I had been part of an initiative on
8 my campus. I worked with graduate students
9 and also facilitated professional development
10 workshops on quantitative reasoning and
11 quantitative literacy at Hostos.

13 Q. Did you undertake any specific
14 training for working as a facilitator in the
15 NICE project?

16 A. I'm not sure what you mean by
17 specific training.

18 Q. So I believe what you just
19 testified was that you believe that you had
20 the qualifications to comment on participants
21 of the NICE course because of your prior
22 teaching experience. I'm wondering, did you
23 undergo any specific preparation or training
24 towards the NICE project that you wouldn't
25 have otherwise received if you weren't

1 S. Hoiland

2 involved in the NICE project?

3 ATTORNEY ZOLOT: Object to form.

4 A. I would say the only related thing
5 was that I was put in the NICHE course before
6 the NICE project officially started. So the
7 materials weren't new to me, I had seen them
8 before. I was aware of the modular structure.

9 Q. And when you say that you were put
10 in the NICHE course, are you referring to a
11 specific person putting you in that course?

12 A. Well, Dr. Wilder enrolled me in the
13 NICHE course.

14 Q. Did Dr. Wilder recommend that you
15 take the NICHE course before being a
16 facilitator in the NICE course?

17 A. I think taking the course is not
18 entirely accurate. So it wasn't a live
19 course. It was between NICHE and NICE. The
20 way that it's structured it's meant to be
21 interactive. It's not just a static thing
22 where someone goes in and takes it.

23 So no, I don't believe the
24 recommendation was that I take it. It was
25 that I become familiar with it, which I did.

1 S. Hoiland

2 Q. So Dr. Wilder recommended that you
3 become familiar with the NICHE course before
4 working as a facilitator on the NICE course,
5 is that correct?

6 A. Yes.

7 Q. Okay. And then acting as a
8 facilitator on the NICE course, did you have
9 any other tasks other than commenting on
10 faculty participants in the NICE course?

11 ATTORNEY ZOLOT: Object to form.

12 A. Are you speaking about when the
13 course was active, so the eight weeks --

14 Q. Sure, right now we're talking about
15 those eight weeks.

16 A. Okay. Well, sure, there were other
17 responsibilities. Right? So at the beginning
18 of the eight weeks we had an in-person
19 session. At the end of the eight weeks we had
20 another in-person session. The second one was
21 hosted on my campus and so it required a
22 significant amount of preparation, getting the
23 room, ordering food, doing all the kinds of
24 logistical things one does while hosting
25 faculty.

1 S. Hoiland

2 So all of those things were
3 happening simultaneous.

4 Q. All right. And we're still talking
5 about this eight week period. Other than
6 commenting on faculty participants and doing
7 administrative tasks to arrange for an
8 on-campus meeting were there any other tasks
9 that you performed as a facilitator on the
10 NICE project?

11 A. I don't believe so.

12 Q. All right. So moving on to after
13 these eight weeks, what happened in the NICE
14 course then?

15 A. So we had a second cohort that was
16 an academic year cohort. I don't recall if
17 all of the summer participants finished on
18 time, so there might have been some
19 carryovers. But the academic year cohort then
20 had to be ushered in and recruited. And I
21 believe there was probably some overlap, so
22 when the summer cohort finished the in-person
23 session I think was for the next cohort. And
24 so just one bled into the other.

25 Q. All right. So how long did the

1 S. Hoiland

2 second cohort last?

3 A. It was an academic year cohort, so
4 approximately eight months.

5 Q. Okay. So we're talking about
6 September 2016 to March 2017?

7 A. I don't recall the dates, and I'm a
8 little bit -- I mean I would have to look at
9 my CV or a syllabus to confirm the years.

10 Q. Okay. So just for ease of
11 discussing what time period we're talking
12 about, the second cohort was approximately
13 eight months and it was after the first eight
14 weeks.

15 A. Correct.

16 Q. All right. So what was your role
17 in the NICE project during this second cohort?

18 A. So while these cohorts are active,
19 right? so while participants are enrolled in
20 the sessions the role was largely the same.
21 So there were a variety of tasks for people to
22 complete, and it was commenting on the various
23 assignments that people submitted --
24 discussion forum posts, basically being an
25 instructor in the course.

1 S. Hoiland

2 Q. So in the second cohort did you
3 participant in the course?

4 A. As a participant?

5 Q. As a participant.

6 A. I don't believe so.

7 Q. All right. And so your role was as
8 the facilitator commenting on faculty
9 participants, is that correct?

10 A. Yes.

11 Q. Did you have any other role in the
12 NICE project during this second cohort?

13 A. Well, so we had been doing
14 presentations early in the project. There
15 were several presentations Dr. Wilder and I
16 did together. Some included other people. So
17 the sort of talking about the project started
18 early, before we got to any component where
19 there would be data and research.

20 Q. All right. So are we still talking
21 about the second cohort time frame?

22 A. Yes. So there were already
23 presentations occurring at that time.

24 Q. And when you say presentations what
25 do you mean by that?

1 S. Hoiland

2 A. So by presentations I mean going to
3 conferences and speaking about the NICE
4 project and the work that is being done.

5 Q. And do you remember which
6 conferences you attended?

7 A. So Dr. Wilder and I went to
8 Michigan together twice. Once for, it was in
9 preparation for a Sloan Foundation grant
10 through ICPSR, I don't remember what that
11 acronym stands for. And another time it was
12 for a National Numeracy Network annual
13 meeting.

14 Q. And so you attended both of these
15 conferences with Dr. Wilder, is that correct?

16 A. We attended the same conference,
17 yes.

18 Q. Okay. And did you make
19 presentations together at these two
20 conferences in Michigan?

21 A. The ICPSR, yes. The NNN, no. We
22 each made separate presentations.

23 Q. And why did you make separate
24 presentations at the NNN conference?

25 A. Why?

1 S. Hoiland

2 Q. Yes.

3 A. I'm not sure I can answer why she
4 presented. I submitted a proposal for myself
5 and a colleague to talk about some
6 collaborative work we were doing in sociology.

7 Q. And so did you present regarding
8 the NICE project at the NNN conference?

9 A. We presented on work that we had
10 done as part of the NICE project.

11 Q. And when you say work that you had
12 done, can you please explain what you mean by
13 that?

14 A. So a colleague and I had worked on
15 some materials to improve quantitative
16 reasoning and quantitative literacy with our
17 introduction to sociology students and if I
18 recall correctly the sort of point of our
19 presentation was to encourage collaboration
20 among faculty. So at one point we joined our
21 classes and our presentation was in part about
22 that collaboration and what that looked like.

23 Q. Did you present any materials from
24 the NICE project at the NNN conference?

25 ATTORNEY ZOLOT: Object to form.

1 S. Hoiland

2 A. Could you repeat the question?

3 Q. Sure. Did you present any material
4 from the NICE project at the NNN conference?

5 A. Well, if materials from the NICE
6 project include assignments and curriculum
7 that were created as part of the NICE project,
8 yes.

9 Q. So these were assignments that were
10 created following the course but they were not
11 the course materials themselves from the NICE
12 project, is that correct?

13 ATTORNEY ZOLOT: Object to form.

14 A. They were not created following the
15 NICE project. They were created as part of
16 the NICE project.

17 Q. Could you please explain what you
18 mean, that they were created as part of the
19 NICE project versus the distinction that you
20 are trying to draw here?

21 A. Yeah. So they were created while
22 the other colleague and I were creating
23 materials as participants in the NICE project.
24 So I believe when I introduced myself I talked
25 about my role in the NICE project as a PI, and

1 S. Hoiland

2 the gist of our presentation was about the
3 specific intervention, pedagogical
4 intervention we made in sociology.

5 Q. So you testified earlier that you
6 also went to a Sloan Foundation conference in
7 Michigan with Dr. Wilder, is that correct?

8 A. Yes.

9 Q. And did you present jointly with
10 Dr. Wilder at that conference?

11 A. With Dr. Wilder and also with
12 Dr. Frank Wang.

13 Q. Okay. And what did the
14 presentation at that Sloan Foundation
15 conference concern?

16 A. So what I recall is that it was a
17 general overview of the NICE project, and
18 NICHE.

19 Q. All right. And so this was a
20 different topic than what was covered at the
21 NNN conference, because the NNN conference
22 dealt with data produced by NICE participants
23 versus the NICE process itself, is that
24 correct?

25 ATTORNEY ZOLOT: Objection;

1 S. Hoiland

² mischaracterizes the testimony.

3 A. Could you repeat the question?

4 Q. Sure.

5 ATTORNEY HUDAK: Court reporter,
6 could you read that last question back,
7 please?

8 (The reporter read back as follows:

9 "Question: All right. And so this
10 was a different topic than what was
11 covered at the NNN conference, because
12 the NNN conference dealt with data
13 produced by NICE participants versus the
14 NICE process itself, is that correct?"

15 A. So the NNN presentation was not
16 specifically about data produced. Right? So
17 there were curriculum materials produced, and
18 that was the focus. It was specifically about
19 introduction to sociology.

20 The Sloan Foundation planning
21 meeting was not specifically about my
22 sociology course or anyone else's. It was
23 more general.

Q. Okay. And when you're referring to your sociology course, what do you mean by

1 S. Hoiland

2 that?

3 A. The courses I teach that are called
4 Introduction to Sociology.

5 Q. And how is that course related to
6 the NICE project?

7 A. So as I mentioned, my colleague and
8 I developed curricular materials to be used in
9 Introduction to Sociology.

10 Q. So while you were a participant in
11 the NICE project, not acting as a facilitator
12 but as a participant, you developed coursework
13 for your sociology course, is that an accurate
14 representation?

15 A. Yes.

16 Q. And the presentation at the NNN
17 conference concerned your sociology course, is
18 that correct?

19 A. Yes.

20 Q. Other than these two conferences in
21 Michigan that we've been discussing were there
22 any other presentations during this time
23 period of the second cohort?

24 A. Yes.

25 Q. What other presentations were

1 S. Hoiland

2 those?

3 A. You would have to pull up my CV or
4 some documentation. There are a lot of
5 presentations.

6 Q. These were presentations done
7 regarding the NICE project?

8 A. Correct.

9 Q. Do you recall any of these other
10 presentations?

11 A. So the MAA, which I believe stands
12 for the Mathematical Association of America,
13 was a presentation that Dr. Wilder, Dr. Wang
14 and I gave prior to the start of the NICE
15 project. This was at my campus, Hostos
16 Community College.

17 There was a presentation, again I
18 believe it was Dr. Wilder, Dr. Wang and myself
19 and some students, it was given at -- oh,
20 what's it called, the campus is alluding me in
21 New York City. Wow, it's not there. Across
22 the street from Columbia. The women's
23 college.

24 There were many, many times when we
25 spoke together about the NICE project.

1 S. Hoiland

2 Q. Were there any -- other than the
3 NNN conference were there any presentations
4 where Dr. Wilder was not a participant in the
5 presentation?

6 A. So Dr. Wilder was in the room, just
7 as I was in the room when she gave her
8 presentation at NNN. If by participant you
9 mean listed as a presenter, I don't recall. I
10 don't believe so.

11 Q. All right. So during this time
12 period of the second cohort we've been
13 discussing your role as a facilitator
14 commenting on faculty participants in the NICE
15 project and various presentations made. Did
16 you have any other role in the NICE project
17 during this time period of the second cohort?

18 A. Yes. So there was also kind of a
19 triage role that Dr. Wilder and I discussed.
20 There were several participants that were
21 struggling, both to complete the materials in
22 a timely fashion and to understand the
23 materials. And so at least two of those
24 faculty members were on my campus and so I had
25 several one-on-one meetings with them,

1 S. Hoiland

2 explaining, discussing, encouraging. Doing
3 those kinds of things.

4 Q. Any other role during this time
5 period of the second cohort?

6 A. Not that I recall.

7 Q. What happened in the NICE project
8 after the second cohort?

9 A. Well, so we had an informal third
10 cohort of people that did not complete the
11 other cohorts. So there was, I would say,
12 concern on our behalf that our completion
13 rates were not what we anticipated that they
14 would be. And so I ended up working with a
15 group of faculty that did not complete in the
16 summer after the other two cohorts finished.
17 So that would have been the summer of 2019.

18 Q. And it was approximately an eight
19 week period again?

20 A. Well, not really. Because everyone
21 had finished a different amount of the
22 material. So it wasn't a new group of people
23 starting at week one and going through it. It
24 was me working with individual faculty,
25 letting them know what they were missing and

1 S. Hoiland

2 helping them with any things that they didn't
3 understand.

4 Q. Approximately how many participants
5 were involved during this period of the third
6 cohort?

7 A. I believe it was six total.

8 Q. So --

9 A. Maybe eight.

10 Q. Sure. Sorry for cutting you off.
11 So during this period of the third cohort did
12 you make any presentations?

13 A. Well, yes. Because the third
14 cohort stretched through August, and even into
15 the fall of 2019. So the faculty who
16 struggled to finish during their scheduled
17 time period also struggled to finish during
18 the summer. Many of them were teaching and
19 had the same issues for not completing prior
20 to the summer in the summer. And so there was
21 no kind of start -- start and end date. I
22 gave suggested deadlines for faculty to
23 complete their missing work, and largely a lot
24 of the faculty missed those deadlines.

25 Q. So we're talking about time

1 S. Hoiland

2 periods. Is it fair to say the third cohort
3 was in the summer of 2019, from the end of I
4 guess the school year in the spring until
5 August?

6 A. Yes. But it continued into the
7 fall as not all of them finished.

8 Q. Okay. And what happened after the
9 third cohort?

10 A. What happened with what?

11 Q. With the NICE project?

12 A. Well, so the project reports were
13 due at the end of 2019. So there's an annual
14 report due each year and then when the project
15 comes to a completion there's a final report
16 that's due.

17 Q. So we've been talking about various
18 time periods in the NICE project, because you
19 said that your role changed throughout the
20 project. So I am just trying to get a roadmap
21 here of when your roles changed versus stayed
22 the same. So did your role change at all
23 between the second and third cohort?

24 ATTORNEY ZOLOT: Object to form.

25 A. The biggest difference is that

1 S. Hoiland

2 Dr. Wilder was not involved with the third
3 cohort.

4 Q. And why was that?

5 A. I'm not sure. You would have to
6 ask Dr. Wilder.

7 Q. Did you ask Dr. Wilder?

8 MS. ZOLOT: Objection.

9 A. I don't recall the exact contents
10 of the discussion. We both understood that it
11 was important to get more faculty to complete.
12 And since I tended to work more closely
13 particularly with the community college
14 faculty, it seemed to make sense that I would
15 assume the role as sole facilitator for the
16 summer.

17 Q. And again your role as a
18 facilitator was commenting on the faculty
19 participants work in the NICE course, is that
20 correct?

21 A. Well, at this point it was a lot
22 more than that, because the reasons that
23 people weren't completing the work was in part
24 because some didn't understand it, and some
25 just needed encouragement, or they needed

1 S. Hoiland

2 guidance. And so it was more than just
3 commenting on their things in Blackboard.

4 There were many emails exchanged.

5 Conversations. I met with a few of them one
6 on one.

7 ATTORNEY ZOLOT: Sandra is this a
8 good time for a break, or in the next a
9 couple of minutes?

10 ATTORNEY HUDAK: Sure. We can take
11 a break now. Let's go off the record.

12 ---

13 (Recess from 11:22 to 11:37.)

14 ---

15 ATTORNEY HUDAK: Back on the record
16 after a short break.

17 Q. So before the break we were talking
18 about the third cohort of the NICE project
19 occurring around the time frame of the summer
20 of 2019.

21 So Dr. Hoiland, I believe you
22 testified earlier that Dr. Wilder was not
23 involved in the third cohort, is that your
24 testimony?

25 A. I said that she was not directly

1 S. Hoiland

2 involved in working with the faculty to
3 complete their missing materials.

4 Q. Were you communicating with
5 Dr. Wilder during this time frame?

6 A. Somewhat.

7 Q. And what do you mean "somewhat"?

8 A. I provided occasional updates via
9 email.

10 Q. And was Dr. Wilder communicating
11 with the participants of the third cohort
12 during this time frame?

13 A. I don't know. I don't recall being
14 cc'd on emails between Dr. Wilder and the
15 participants. Sandra, you froze.

16 Q. Did any of the participants
17 discuss --

18 ATTORNEY HUDAK: Sure. Am I
19 unfrozen now?

20 ATTORNEY ZOLOT: Well, your face is
21 frozen.

22 ATTORNEY HUDAK: Am I unfrozen now?

23 ATTORNEY ZOLOT: No.

24 (Discussion off the record.)

25 (Pause in proceedings.)

1 S. Hoiland

2 ATTORNEY HUDAK: Back on the record
3 after another technical break. Court
4 reporter, could you please just read
5 back the last question and answer.

6 (Requested portion of the record
7 read back.)

8 BY ATTORNEY HUDAK:

9 Q. Dr. Hoiland, do you know if
10 Dr. Wilder was communicating with the
11 participants in other forms, not by email?

12 A. I don't know.

13 Q. And in your communications with
14 Dr. Wilder directly, did she inform you that
15 she was communicating with participants of the
16 third cohort?

17 A. I don't recall that, no.

18 Q. Do you recall one way or the other?

19 A. So Dr. Wilder at that point had
20 their stipends in her budget. So if there was
21 communication and I was included it was about
22 providing the stipends, which were given to
23 participants when they completed the program.

24 So those communications I would be cc'd on.

25 But I don't know if there were other forms of

1 S. Hoiland

2 communication.

3 Q. So you don't know if Dr. Wilder was
4 communicating with the participants at the
5 third cohort, is that accurate?

6 A. Other than they're related to
7 stipends, no. I don't know.

8 Q. All right. And in this time period
9 of the third cohort did you make any
10 presentations regarding the NICE project?

11 A. So one that I recall was the ASA
12 presentation in the summer of 2019, that would
13 have been in August in New York City.

14 Q. Do you recall any others?

15 A. Do I recall any other ...?

16 Q. Presentations during the third
17 cohort of the NICE project?

18 A. I don't believe so, but I would
19 have to refer to my CV. In June or July of
20 2019. I'm not sure.

21 Q. And what topic was the ASA
22 presentation regarding?

23 A. So I submitted a proposal on behalf
24 of both Dr. Wilder and myself, it was for a
25 workshop, which is a different type of

1 S. Hoiland

2 conference presentation. And the topic I
3 believe there was something in the title about
4 more than statistical superlatives, and it was
5 sort of looking at the ways in which community
6 college faculty and students can exceed what
7 the numbers show in terms of their abilities.

8 And it also included student
9 presenters.

10 Q. And so Dr. Wilder was involved in
11 this ASA presentation, is that correct?

12 A. Was she involved in writing the
13 proposal?

14 Q. Was she involved in making the ASA
15 presentation?

16 A. Well, so the way that it was
17 submitted, we were supposed to present
18 together. It was a large workshop in a
19 ballroom at the Hilton in midtown here in New
20 York City. Our collaboration and relationship
21 had really devolved by that point. And so the
22 way we ended up doing it was as two separate
23 presentations under the same title.

24 Q. And what do you mean by two
25 separate presentations?

S. Hoiland

A. I mean we didn't present together.

3 One of us presented, then the other presented,
4 almost as if there were two completely
5 separate presentations.

Q. What did your presentation concern?

7 A. So my presentation, as I recall,
8 was largely related to the abstract I
9 submitted. I had a student there named
10 Parnell, and he spoke about his experience
11 being a student in my class, doing some work
12 with quantitative research and quantitative
13 literacy. If I recall correctly, he also
14 spoke about his own experience as a student.
15 He was homeless throughout the time he was in
16 my class and he spoke about that.

17 And I think what I wanted to convey
18 with that presentation was that campuses like
19 mine, students like mine, faculty like myself
20 are more than what the numbers say. Which is
21 that they don't graduate, they don't stay,
22 they don't -- they're not capable of doing the
23 kinds of work that we were talking about.

24 Q. Is it fair to say that the
25 presentation that you made at this ASA

1 S. Hoiland

2 conference concerned your sociology class?

3 A. I don't believe that presentation
4 was exclusively about my class. Because I
5 also, again, if I recall correctly, Dr. Wilder
6 had brought a student and so part of the goal
7 of the presentation was to bring in a student
8 perspective. So it was not exclusive to my
9 class. It was about what it looked like to
10 have NICE creative materials in the classroom,
11 from the student's perspective, and from my
12 perspective as a PI.

13 Q. So what was the relationship
14 between your ASA presentation and the NICE
15 project?

16 A. Well, at that point --

17 ATTORNEY ZOLOT: Object to form.

18 THE WITNESS: Sorry.

19 A. At that point the NICE project was
20 coming to a close, and so like I said, it was
21 really about students who had worked on
22 different materials, so Dr. Wilder's student
23 had taken her class and had experienced
24 whatever exercises Dr. Wilder included in her
25 class just as my student had done in my class.

1 S. Hoiland

2 And so for the audience it was really a look
3 at the NICE project through the lens of
4 students.

5 Q. You mentioned that this ASA
6 conference was in a large ballroom, is that
7 correct?

8 A. Yes.

9 Q. Were there other presentations that
10 were made in other settings? I'm looking to
11 see how you're defining the word
12 "presentation" here. Is it always at a large
13 conference or does it include anything other
14 than a conference that would take place in a
15 large ballroom, for example?

16 ATTORNEY ZOLOT: Object to form.

17 A. So that presentation I believe fell
18 under the heading of a workshop. And within
19 ASA the workshops tend to be held in larger
20 spaces, they have more people attend, the
21 audience can be a little bit broader. And no,
22 I mean it can vary widely, in terms of sort of
23 the formality of a presentation, whether, for
24 example, if someone is on a panel, that's
25 considered a presentation, there may or may

S. Hoiland

2 not be any kind of visual aid along with that.

3 There may or may not be any paper along with
4 that. So there's great variation.

5 Q. So when we've been talking about
6 presentations made as part of the NICE
7 project, what scope of conference or other
8 event are you including in the definition of a
9 presentation?

10 ATTORNEY ZOLOT: Object to form.

11 A. So within the institutional context
12 there's a clear divide between a presentation
13 versus something that could be considered
14 service or something that could be considered
15 like service to a professional organization.

16 There's also distinctions between
17 invited talks and presentations.

18 And then completely separate from
19 that are publications

20 Q. Okay. So when you're referring to
21 presentations what are you referring to?

22 A. So generally I'm referring to
23 conference presentations.

24 Q. Okay. And so the presentations we
25 discussed before, for example, the Sloan

1 S. Hoiland

2 Foundation presentation in Michigan, was that
3 a conference presentation?

4 A. I believe on my CV I included that
5 under Professional Reputation, because the
6 audience was specific to people who were
7 applying for a grant. I know it was an
8 invited presentation.

9 Q. Did it take place in a large
10 ballroom?

11 A. It did not.

12 Q. About how many people were in
13 attendance?

14 A. Outside of Dr. Wilder's and Wang, I
15 would say three or four.

16 Q. So when we've been discussing
17 presentations are you including any talks that
18 you had given in front of three or four
19 people, to a larger group of people?

20 ATTORNEY ZOLOT: Object to form.

21 A. So when I submit a proposal to a
22 conference it's never clear or guaranteed how
23 many people will show up. Like for example, I
24 just had a friend who went to London for a
25 conference presentation and no one showed up.

1 S. Hoiland

2 But that presentation still goes in her CV.

3 Q. That doesn't really answer my
4 question. I am trying to pin down when you
5 talk about presentations that you made as part
6 of the NICE project, how are you defining what
7 a presentation entails?

8 A. So the things that are listed on
9 the NICHE/NICE website as NICE presentations
10 are those that have been submitted to a
11 conference.

12 Q. And so the presentations that are
13 listed on the NICE website are the universe of
14 presentations that you are referring to when
15 you have been discussing presentations thus
16 far?

17 ATTORNEY ZOLOT: Object to form.

18 A. I've made other presentations about
19 other work unrelated to NICE. But specific to
20 NICE, those -- those are the presentations
21 that we submitted as part of our reporting
22 that were done in conjunction with NICE.

23 Q. So again that doesn't answer my
24 question. We've been talking about
25 presentations during this deposition. Have

1 S. Hoiland

2 you been considering the word "presentation"
3 to mean the presentations listed on the NICE
4 website?

5 ATTORNEY ZOLOT: Objection; asked
6 and answered.

7 A. Yes.

8 Q. Now turning back to the ASA
9 presentation in about August of 2019. You
10 mentioned that you and Dr. Wilder had made
11 separate presentations because of, I don't
12 remember the word you used, but I believe it
13 was something like conflict between the two of
14 you. Is that correct?

15 A. I said the relationship had
16 devolved by that point.

17 Q. All right. So I am going to share
18 an exhibit.

19 ---

20 (Exhibit 1, email, Bates number
21 D0023 through D0024 was marked for
22 identification)

23 ---

24 Q. Do you see that I have shared my
25 screen?

1 S. Hoiland

2 A. Yes.

3 Q. Do you see a PDF document shown on
4 the screen?

5 A. Yes.

6 Q. This is a PDF that was
7 peer-reviewed by defendant in this case and
8 has been marked with Bates number D0023
9 through D0024. I am going to mark this as
10 exhibit 1.

11 Dr. Hoiland, do you recognize this
12 document?

13 A. Yes.

14 Q. And what do you recognize this
15 document to be?

16 A. An email communication between
17 Dr. Wilder and myself.

18 Q. And this is dated around August
19 2019, is this correct?

20 A. Yes.

21 Q. All right. And this was during the
22 time of the third cohort, is that correct?

23 A. Yes.

24 Q. All right. So turn to the second
25 page which is D0024. Do you see on this page

1 S. Hoiland

2 an email that's dated Thursday, August 29,
3 2019 from Esther to -- Esther Wilder to you?

4 A. Yes.

5 Q. And the email says: "Dear Sarah,
6 have you been providing updates/encouragement
7 to Enyuan, Min, and Adijat since you copied me
8 on some exchanges dated July 23, 2019?"

9 Did I read that correctly?

10 A. Enyuan, Min and Adijat, yes.

11 Q. And when Dr. Wilder is referring to
12 updates/encouragement to these three
13 individuals, what is she referring to?

14 A. She's referring to my role in
15 ushering through the final cohort of the NICE
16 project. Three of the participants are listed
17 there.

18 Q. So she is following up with you to
19 make sure that you are providing
20 updates/encouragement to these three
21 individuals on the NICE project, is that
22 correct?

23 A. No, I think she's saying that I
24 know you've been providing updates, please cc
25 me.

1 S. Hoiland

2 Q. Okay. And why is she asking you to
3 cc her?

4 A. I'm not sure why she's asking that.

5 Q. Turn back to the first page of this
6 document, which is D 0023. And I am looking
7 at the second email on the bottom of the page,
8 which is an email described as from Sarah
9 Hoiland to Esther Wilder on August 30, 2019.
10 And it says -- I am going to highlight some
11 text here. It says Hi -- I'm sorry. The
12 highlighting tool is not working very well so
13 I'll just read it to you. It says, "Hi
14 Esther, yes, I have been providing updates.
15 This Sunday is their new extended deadline,
16 which is detailed in the emails I just
17 forwarded. I fell behind during ASA and
18 traveled the next week, so several
19 communications were between each participant
20 and myself because they were all in different
21 places. I should have cc'd you on the two I
22 forwarded and planned to email you and ask you
23 to provide feedback on the last deliverable
24 once all three were posted."

25 Did I read that correctly?

1 S. Hoiland

2 A. Yes. You're breaking up, but
3 that's what I'm reading.

4 Q. Okay. So is it fair to say that
5 Esther's -- Dr. Wilder's prior email to you
6 was asking if you had sent out an email and
7 this email is a response saying that
8 defendant, you, Dr. Hoiland, should have cc'd
9 on the emails with the -- (audio distortion)

10 THE COURT REPORTER: I'm sorry, you
11 broke up.

12 ATTORNEY ZOLOT: You cut out.

13 ATTORNEY HUDAQ: Sure. I'll repeat
14 that.

15 Q. So the question was is it fair to
16 say that this email is responding to
17 Dr. Wilder's email advising that you had
18 not -- that you, Dr. Hoiland, had not cc'd
19 her. Dr. Wilder -- (audiovisual interruption)

ATTORNEY ZOLOT: You froze again.

21 Q. -- and you are responding here that
22 you should have cc'd her?

23 (Discussion off the record.)

24 — — —

25 (Recess from 12:07 to 12:16.)

1 S. Hoiland

2 ---

3 ATTORNEY HUDAK: So back on the
4 record after a short technical break.
5 Court reporter, could you please read
6 back the last full question and answer?

7 (Requested portion of the record
8 read back.)

9 BY ATTORNEY HUDAK:

10 Q. Please let me know if we need to
11 take a step back and refresh your memory about
12 this exhibit that we're looking at, but at the
13 current moment we're looking at the first page
14 of the document, which is D 23, and we were
15 discussing what this email says. So is it
16 fair to say that this email is a response from
17 you to Dr. Wilder stating that you had not
18 cc'd her on emails with NICE project
19 participants but should have?

20 A. So I think its important to
21 contextualize this email. This email is
22 coming almost three weeks after a series of
23 emails in which Dr. Wilder had said many
24 things. And so I was not under the impression
25 that I needed to include her and cc her on

1 S. Hoiland

2 every single email communication I was sending
3 to NICE participants who were in that summer
4 cohort. As it states here, she was not
5 directly involved. She was going to look at
6 their final deliverable and provide feedback.

7 So I was agreeing with what she
8 said. However, at the time I sent those
9 emails I did not see any need to include her.

10 Q. All right. And then looking at the
11 first email in this chain, which is at the top
12 of page D 23, it says "Dear Sarah, Yes I would
13 have liked to have been cc'd on these group
14 emails."

15 Did I read that correctly?

16 A. Yes.

17 Q. So isn't Dr. Wilder saying that she
18 assumed that you would cc her on group emails
19 with NICE project participants?

20 ATTORNEY ZOLOT: Object to form.

21 A. So my response indicates that I had
22 emailed individuals, because each person was
23 working on different things at different
24 times. And so to cc a PI on what was
25 relatively a small part in terms of the scope

1 S. Hoiland

2 of the project on an individual email between
3 myself and another faculty did not make sense
4 then and it does not make sense now.

5 Q. What Dr. Wilder was saying is that
6 she expected you to cc her, correct?

7 ATTORNEY ZOLOT: Object to the
8 form. Sandra, the document says what it
9 says, and you're --

10 ATTORNEY HUDAK: I am asking for
11 the witness' interpretation of --

12 ATTORNEY ZOLOT: You are asking the
13 witness if Dr. Wilder assumed something
14 when the language in the email itself
15 says "I would have liked." You're
16 asking her --

17 ATTORNEY HUDAK: Stop making
18 speaking objections. You can make your
19 objection to form on the record. But
20 we're talking about an email between the
21 plaintiff and the defendant in this case
22 and I'm allowed to ask her questions
23 about it.

24 Q. So Dr. Hoiland, isn't it fair to
25 say that this email is stating that Dr. Wilder

1 S. Hoiland

2 was expecting you to cc her on emails with
3 NICE project participants?

4 ATTORNEY ZOLOT: Object to form.

5 A. Her language is I would have liked
6 to have been cc'd on these group emails.

7 Q. And so Dr. Wilder expected to be
8 included in this third cohort of the NICE
9 project?

10 ATTORNEY ZOLOT: Object to form.

11 A. By "included" if you meant doing
12 the work of communicating regularly with each
13 of the faculty members, no. She was aware of
14 the deadline. She was aware of the timeline
15 that I created for the summer cohort. And as
16 I said, the deadlines and the completion was
17 pertinent to her part in the summer cohort
18 because she distributed the stipends upon
19 completion.

20 Q. Did you begin cc'ing Dr. Wilder on
21 emails with NICE project participants after
22 this email received on August 30, 2019?

23 ATTORNEY ZOLOT: Object to form.

24 A. I don't recall.

25 Q. All right. So I believe you

1 S. Hoiland

2 testified before that the ASA presentation was
3 the only presentation you could recall from
4 the third cohort of the NICE project, is that
5 correct?

6 A. During the third cohort, in the
7 summer of 2019?

8 Q. And were you responsible for any
9 other tasks in the NICE project --

10 A. Wait, sorry. That was a question.
11 Sandra, that was a question. So could you
12 repeat the question you asked? That wasn't my
13 answer. I was trying to get clarification.

14 Q. All right. I was just trying to
15 confirm your testimony that the ASA
16 presentation that you mentioned previously was
17 the only presentation you could recall for the
18 NICE project during the third cohort of the
19 NICE project, is that correct?

20 A. It is the only one I recall, but I
21 would have to refer to my CV.

22 Q. Okay. And other than presentations
23 and providing comments to faculty participants
24 of the third cohort of the NICE project, did
25 you perform any other tasks on behalf of the

1 S. Hoiland

2 NICE project during the third cohort?

3 A. I don't believe so.

4 Q. And after the third cohort what was
5 your role in the NICE project?

6 A. Well, after the third cohort I was
7 thinking about our annual report, which each
8 of us had to write and submit separately for
9 each of our grants. So it's one project with
10 two separate grant numbers and a reporting
11 structure. And so part of that report
12 required me to report on the results of the
13 NICE project.

14 At some point that fall, Dr. Wilder
15 removed me from the Blackboard shell, which is
16 what contained really any data from the
17 project.

18 So my role in that final phase was
19 trying to complete my end of the project and
20 submitting my annual report, which was due
21 December 31.

22 Q. And other than preparing that
23 report you had no other role in the NICE
24 project, is that correct, at that final time
25 period?

S. Hoiland

2 A. Well, the role that I had in
3 ushering through the final cohort, there were
4 still a few that had not finished. But
5 without access to Blackboard I could not
6 continue in that role.

7 Q. And did you make any presentations
8 as part of the NICE project during this final
9 phase of the NICE project?

10 A. I don't believe so. I had
11 submitted an abstract for Esther and I had to
12 present at NNN, but I retracted the
13 acceptance, that conference was supposed to
14 take place in October of 2019, I believe it
15 was in Austin, Texas or maybe Houston, but I
16 did not attend and I did not present.

17 Q. And other than these phases of the
18 NICE project that we discussed so far are
19 there any other phases or roles that you've
20 played in the NICE project that have not been
21 discussed?

22 A. I don't believe so.

23 Q. Did you conduct any research as
24 part of the NICE project?

25 A. So the research generally occurs

1 S. Hoiland

2 when the project activities are completed, and
3 at that point I had been removed from the
4 Blackboard shell.

5 Q. Did you write any publications as
6 part of the NICE project?

7 A. Are you referring to publications
8 as in peer-reviewed articles?

9 Q. Sure, we can start with that.

10 A. No.

11 Q. Do you have any other definition of
12 publication?

13 A. I do not. In academia the
14 definition of publication is clear.

15 Q. You mentioned before providing
16 comments to faculty participants through
17 Blackboard, is that correct?

18 A. Correct.

19 Q. And what is Blackboard?

20 A. Blackboard is a learning management
21 system.

22 Q. And did it host the instructional
23 materials used in the NICE project?

24 A. Yes, it did.

25 Q. Did you make any contributions to

1 S. Hoiland

2 the instructional materials used in the NICE
3 project hosted on Blackboard?

4 A. I believe I pointed out a few
5 places where there were grammatical errors,
6 where the word NICHE was still there instead
7 of NICE, but not any substantive changes. It
8 was not actually possible to change the
9 materials because the research began -- not
10 the research, excuse me. The participants
11 started the NICE cohort very early in the
12 project so there was not time built into the
13 proposal to change the materials.

14 Q. And did the instructional materials
15 used in the NICE project that were hosted on
16 Blackboard, did those come from the NICHE
17 project?

18 A. Yes.

19 Q. Did you make a presentation at the
20 Community College Conference on Learning
21 Assessment held at Valencia College in
22 Orlando, Florida on or about February 17,
23 2019?

24 A. Yes.

25 Q. Can we call that conference the

1 S. Hoiland

2 CCLA conference for short?

3 A. Yes.

4 Q. And do you understand that the
5 presentation that you made at that CCLA
6 conference is an issue in this litigation?

7 A. Yes.

8 Q. Did people have to -- did
9 participants in the conference have to pay to
10 attend the conference?

11 A. Yes.

12 Q. And why did you apply to make a
13 presentation at the CCLA conference?

14 A. So one of the goals of the NICE
15 project was to disseminate what we were doing
16 in the project to other community college
17 faculty. And so a conference on learning
18 assessment for community college faculty fit
19 very well within the overarching project
20 goals.

21 Q. Did you have any other motivation
22 for speaking at the conference other than
23 disseminating information regarding the NICE
24 project?

25 A. There was geographic motivation. I

1 S. Hoiland

2 had taken my son along who at that time, you
3 know, he was young, it was a while ago, and my
4 son's father lives outside of Orlando, so it
5 was a good conference for me to attend because
6 I could facilitate a visit.

7 Q. Was there any other motivation?

8 A. No.

9 Q. Was the presentation that you made
10 at the CCLA conference something that you
11 could put on your CV?

12 A. Yes.

13 Q. Was the presentation that you made
14 at the CCLA conference something that you
15 could have referenced in applications for
16 further grants in your career?

17 A. So presentations don't count for
18 hardly anything. Presentations fall into a
19 very different category than publications,
20 awards, grants. My CV has a few dozen
21 presentations, so one more line on my CV would
22 have done absolutely nothing for my career.

23 Q. Were you hoping to network with
24 people at the CCLA conference?

25 A. I'm not a great networker. I'm

1 S. Hoiland

2 getting better. In that particular conference
3 I actually did not get a single name or email
4 from that conference.

5 Q. So you have not talked with anybody
6 that you met at the CCLA conference since that
7 conference?

8 A. No. Well, other than Rachel
9 Meister, which whom was an organizer. But in
10 terms of faculty participants or
11 administrative participants, no.

12 Q. Is it fair to say that you sent a
13 PowerPoint document to the CCLA conference
14 organizers to be distributed to the
15 registrants of the CCLA conference?

16 ATTORNEY ZOLOT: Object to form.

17 A. I submitted a PowerPoint
18 presentation to Rachel Meister.

19 Q. Okay. And if I refer to that
20 document as the CCLA PowerPoint are we clear
21 on what document that we're talking about?

22 A. Yes.

23 Q. I am going to take down the
24 document previously marked as exhibit 1, take
25 that off the screen. And then I'm bringing up

1 S. Hoiland

2 a new document.

3 Do you see that I have shared a
4 different document?

5 A. Yes.

6 Q. This document was produced by
7 defendant in this case and is marked with
8 Bates numbers 234 through 256. Let me know if
9 you would like a chance to review each page of
10 the document, but do you recognize this
11 document?

12 A. Yes.

13 Q. And what do you recognize it to be?

14 A. I recognize it to be the PowerPoint
15 I submitted for the CCLA conference.

16 Q. Okay. And at the CCLA conference
17 you made an oral presentation while showing
18 this CCLA PowerPoint, is that correct?

19 A. Yes.

20 Q. All right. So is it okay going
21 forward to refer to that oral presentation as
22 the oral presentation?

23 A. Yes.

24 Q. And on the first page of the CCLA
25 PowerPoint or slide, I should say, does the

1 S. Hoiland

2 first slide include your name?

3 A. Yes.

4 ATTORNEY LINN: Sandra, I don't
5 think you have marked this as an
6 exhibit.

7 ATTORNEY HUDAK: Thank you, Janet.

8 Let's mark this as exhibit 2.

9 -----

10 (Exhibit 2, PowerPoint, Bates D0234
11 through D0256 was marked for
12 identification)

13 -----

14 Q. So Dr. Hoiland, I believe you
15 answered yes?

16 A. Yes.

17 Q. Are any other names included on
18 this first slide of the CCLA PowerPoint?

19 A. No.

20 Q. I am going to turn to slide 2 of
21 the PowerPoint which has Bates numbers D 235.
22 Do you see that I have turned the page?

23 A. Yes.

24 Q. And at the top of the slide it says
25 Numeracy Infusion For College Educators

1 S. Hoiland

2 (NICE). Is that correct?

3 A. Yes.

4 Q. And is NICE referring to the NICE
5 project that we've been discussing so far
6 today?

7 A. Yes.

8 Q. The first bullet point here says
9 "What is NICE?" Is that correct?

10 A. Yes.

11 Q. And the word NICE is in blue and
12 underlined. Does that indicate that it's a
13 hyperlink?

14 A. Yes.

15 Q. And what does the word NICE
16 hyperlink to?

17 A. I believe it hyperlinked to the, to
18 each QR page, which was the project site for
19 the NICE project, and also NICHE.

20 Q. I am going to take exhibit 2 down
21 for a second. All right. And do you see that
22 I've shared a different document on the
23 screen?

24 A. Yes.

25 Q. And I will represent to you that

1 S. Hoiland

2 this is a printout of the webpage that opened
3 when I clicked on the NICE link that we just
4 saw.

5 Do you recognize this document --

6 A. Yes.

7 Q. -- or this webpage?

8 A. Yes.

9 ATTORNEY LINN: Sandra, are you
10 marking this as an exhibit?

11 ATTORNEY HUDA: Yes, let's mark
12 this as exhibit 3.

13 ---

14 (Exhibit 3, NICE webpage was marked
15 for identification)

16 ---

17 Q. Dr. Hoiland, I believe you answered
18 yes, that you recognize this document?

19 A. Yes.

20 Q. And what do you recognize it to be?

21 A. So this is the award abstract.

22 Q. And the award for the NICE project
23 was granted in two parts, to you and
24 Dr. Wilder, is that correct?

25 A. Yes.

1 S. Hoiland

2 Q. Does this document refer to
3 Dr. Wilder?

4 A. No.

5 Q. So it's fair to say that the link
6 from the NICE hyperlink that we were looking
7 at on exhibit 2 refers to a document that did
8 not include Dr. Wilder's name, is that
9 correct?

10 A. Yes.

11 Q. I am going to take exhibit 3 off
12 the screen. And I've put back up slide 2 of
13 exhibit 2. Do you see that?

14 A. Yes.

15 Q. Did you author the text that is
16 shown on this slide?

17 A. The text that is shown on the slide
18 comes from the proposal for the NICE project.
19 The research questions. And the first bullet
20 point is just saying what it is. So ...

21 Q. So did you author this text?

22 A. Yes, I worked on the proposal with
23 Dr. Wilder. We discussed the research
24 questions.

25 Q. Did you draft the research

1 S. Hoiland

2 questions for the NICE proposal?

3 A. It was a collaborative proposal. I
4 was involved in writing the research
5 questions.

6 Q. I believe you testified earlier
7 that Dr. Wilder prepared the first draft of
8 the proposal for the NICE project, is that
9 correct?

10 A. Yes.

11 Q. And that you reviewed that draft
12 and made minor revisions, is that correct?

13 A. That's correct.

14 Q. Was the text that's shown on slide
15 2 of exhibit 2 revised by you in reviewing the
16 NICE proposal?

17 A. I don't recall if I made specific
18 revisions.

19 Q. Did Dr. Wilder draft the research
20 questions that are shown on slide 2 of exhibit
21 2?

22 A. I don't recall if the research
23 questions changed significantly.

24 Q. Did Dr. Wilder draft the research
25 questions for the NICE proposal?

1 S. Hoiland

2 A. What I can recall is that there was
3 a draft of the proposal. To the extent that
4 the research questions shifted or changed
5 during that process, I don't recall. The
6 proposal was submitted by both of us. So
7 we're both considered co-authors of the
8 proposal.

9 Q. Turning to slide 7 of exhibit 2,
10 which has Bates numbers D 240. Do you see
11 that I've changed the page?

12 A. Yes.

13 Q. Did you author the text that is
14 shown on slide 7?

15 A. This is the text that was in our
16 proposal 1 through 8.

17 Q. And did that text -- was that text
18 written by you?

19 ATTORNEY ZOLOT: Object to form.

20 A. Did I write this text on this
21 slide? Yes. Are these the names of the units
22 that were part of the NICE project? Yes. Did
23 I create those units? No.

24 Q. So you took the text that's shown
25 on slide 7 from the NICE proposal, is that

1 S. Hoiland

2 correct?

3 ATTORNEY ZOLOT: Object to form.

4 A. These are the modules that were the
5 basis of the NICE project.

6 Q. And how did you prepare the text
7 that's shown on slide 7? Did you copy it from
8 a source?

9 ATTORNEY ZOLOT: Object to form.

10 A. Are you asking whether I typed 1
11 through 8 into the slide or whether I copy and
12 pasted? I don't recall.

13 Q. I am asking where you obtained the
14 text that is shown in slide 7?

15 A. Well, I had been working in the
16 modules at this point for almost two years, so
17 I wouldn't really need to look at anything,
18 because I knew the modules.

19 Q. And when you say working with the
20 modules, do you mean the modules shown in the
21 materials on Blackboard?

22 A. Right. The modules that were
23 central to the NICE project.

24 Q. And so these modules are shown in
25 the materials in Blackboard?

1 S. Hoiland

2 A. They are in Blackboard.

3 Q. All right. And do you see that I
4 have turned the page to slide 8 which has
5 Bates stamp D 241?

6 A. Yes.

7 Q. Did you author the text that is
8 shown on this slide?

9 A. Again, this text came from one of
10 the modules.

11 Q. So you copied this text from the
12 materials in Blackboard?

13 ATTORNEY ZOLOT: Object to form.

14 A. These were the basic instructions
15 included at the module on assessment.

16 Q. So the answer is yes, you copied
17 these -- the text that's shown on slide 8 from
18 the materials in Blackboard?

19 ATTORNEY ZOLOT: Object to form.

20 A. It is the same text.

21 Q. I'm turning to --

22 A. Sorry.

23 Q. -- slide 9 now?

24 A. Sandra --

25 Q. Do you see that I have turned the

1 S. Hoiland

2 page?

3 A. Yeah, with the exception of the
4 hyperlink at the bottom which did go to the
5 Teach QR page.

6 Q. All right. And we've discussed
7 before that that link, the information shown
8 at that link does not include Dr. Wilder's
9 name, is that correct?

10 A. No, we didn't discuss that. That
11 was the first hyperlink.

12 Q. Does this link to some other
13 webpage?

14 A. That's to the project webpage,
15 which does have Dr. Wilder's name all over it.

16 Q. Is that publicly accessible?

17 A. Yes. And I showed that during the
18 presentation.

19 Q. How did you show it?

20 A. I clicked on it and moved through
21 several of the pages.

22 Q. We're on slide 9. Do you see that
23 we're on the next slide that has Bates numbers
24 242?

25 A. Yes.

1 S. Hoiland

2 Q. Did you author the text that is
3 shown on this slide?

4 A. This text came from the assessment
5 module as well.

6 Q. The assessment module located on
7 Blackboard?

8 A. Correct.

9 Q. Turn to slide 10 of exhibit 2 which
10 has Bates number D 243. Do you see slide 10
11 on your screen?

12 A. Yes.

13 Q. Did you author the text that is
14 shown on slide 10?

15 A. The text at the bottom is mine.

16 Q. Did you author any of the other
17 text on the slide?

18 A. That text came from the module.

19 Q. And that's the module on
20 Blackboard?

21 A. Correct.

22 Q. Turn to slide 11 of exhibit 2 which
23 has Bates number D 244. Do you see that we're
24 on slide 11?

25 A. Yes.

1 S. Hoiland

2 Q. Did you author the text that is
3 shown on slide 11?

4 A. The text came from the assessment
5 module.

6 Q. And that's the assessment module on
7 Blackboard?

8 A. Yes.

9 Q. Turning now to slide 12 which has
10 Bates number D 245. Do you see that we're on
11 slide 12 now of exhibit 2?

12 A. Yes.

13 Q. Did you author the text that is
14 shown on slide 12?

15 A. This text came from the assessment
16 module on Blackboard.

17 Q. Turning now to slide 13 which has
18 Bates number D 246. Do you see slide 13 on
19 your screen?

20 A. Yes.

21 Q. Did you author the text shown on
22 slide 13 of exhibit 2?

23 A. The text at the bottom is mine.

24 Q. Did you author any of the other
25 text on slide 13?

1 S. Hoiland

2 A. No.

3 Q. Turning to slide 14, which has
4 Bates number D 247. Do you see slide 14?

5 A. Yes.

6 Q. Did you author the text that is
7 shown on slide 14 of exhibit 2?

8 A. No.

9 Q. Turning now to slide 15 which has
10 Bates number D 248. Do you see slide 15 on
11 your screen?

12 A. Yes.

13 Q. Did you author the text that is
14 shown on slide 15 of exhibit 2?

15 A. No.

16 Q. Turning now to slide 16 which has
17 Bates number D 249. Do you see slide 16 on
18 your screen?

19 A. Yes.

20 Q. Did you author the text shown on
21 slide 16 of exhibit 2?

22 A. No.

23 Q. Turning now to slide 17 which has
24 Bates number D 250. Do you see exhibit [sic]
25 17 on your screen?

1 S. Hoiland

2 A. Yes.

3 Q. Did you author any of the text on
4 slide 17 of exhibit 2?

5 A. No. This came from the prison
6 policy initiative.

7 Q. And is that source noted on this
8 slide?

9 A. There's a link at the bottom.

10 Q. Turning now to slide 18, which has
11 Bates number D 251. Do you see slide 18 on
12 your screen?

13 A. Yes.

14 Q. Did you author any of the text
15 shown on slide 18 of exhibit 2?

16 A. Yes.

17 Q. What text did you author?

18 A. The blue text. And I don't know if
19 I made the red red, or if that was like that.
20 But the blue text is mine.

21 Q. Other than the blue and possibly
22 changing the color of the red text, did you
23 author any of the text shown on slide 18 of
24 exhibit 2?

25 A. No.

1 S. Hoiland

2 Q. Turning to slide 19 which has Bates
3 number D 252. Do you see slide 19 on your
4 screen?

5 A. Yes.

6 Q. Did you author any of the text on
7 slide 19 of exhibit 2?

8 A. I'm not sure if the red was red or
9 if I made the red red. Other than that, no.

10 MS. HUDAK: All right. It's almost
11 1 o'clock. I think it's a good time to
12 take a lunch break. Let's go off the
13 record.

14 (Discussion off the record.)

15 (Lunch recess taken at 12:57 p.m.)

16

17

18

19

20

21

22

23

24

25

1 S. Hoiland

2 A F T E R N O O N S E S S I O N

3 (1:47 p.m.)

4 - - -

5

6 SARAH HOILAND,

7 resumed as a witness, having been
8 previously sworn by the Notary Public,
9 was examined and testified further as
10 follows:

11 ATTORNEY HUDAK: Back on the record
12 after a lunch break.

13 Q. We were talking before about the
14 CCLA PowerPoint. Do you recall that?

15 A. Yes.

16 Q. And I am going to put it back up on
17 the screen. All right, do you see the
18 document that I have marked before as exhibit
19 2?

20 A. Yes.

21 Q. All right. Great. We were talking
22 before about -- (audio distortion) Do you
23 recall that?

24 A. Excuse me?

25 Q. Do you recall before talking about

1 S. Hoiland

2 modules on Blackboard?

3 A. Yes.

4 Q. And who created the modules that
5 are on Blackboard?

6 A. I believe Dr. Wilder created most
7 of the content in the modules.

8 Q. Do you know if anybody else created
9 other content in the modules?

10 A. Through email communication,
11 Dr. Wilder told me that Dr. Wang had created
12 content for one of the modules.

13 Q. And which module is that?

14 A. Can you pull the slide with the
15 modules back up?

16 Q. Sure. We're on slide 7 of exhibit
17 2.

18 A. I believe it was module 3, the
19 brain, cognition and QR.

20 Q. I am going to turn to slide 8 of
21 exhibit 2. Do you see that?

22 A. Yes.

23 Q. And again this has Bates number
24 D 241. And is Dr. Wilder's name shown on this
25 slide?

1 S. Hoiland

2 A. No.

3 Q. And you mentioned before that the
4 last line see: NICE/NICHE Teach QR linked to
5 a webpage, is that correct?

6 A. Yes.

7 Q. I'll take exhibit 2 down for a
8 second.

9 And do you see that I've put a new
10 document up on the screen?

11 A. Yes.

12 Q. And do you recognize this document?

13 A. No. It looks like they're either
14 screenshots or some kind of reproduction of
15 website pages.

16 Q. Yes. So I will represent to you
17 that this is a printout of the webpage that
18 the link in exhibit 2, slide 8, are links to.
19 I printed this out over the lunch break. The
20 formatting shows a little differently in the
21 PDF version printout, so we can look at the
22 actual webpage if you prefer. But if you
23 recognize this page let me know, this
24 document, which I am going to mark it as
25 exhibit 4.

1 S. Hoiland

2 ---

3 (Exhibit 4, PDF page of NICHE/NICE
4 hyperlink was marked for identification)

5 ---

6 A. Yes.

7 Q. So does exhibit 4 look like what
8 you would expect the link on slide 8 to link
9 to?

10 A. I'm not sure. I mean the link was
11 put in the PowerPoint in 2019 and you pulled
12 the website today, so I can't say what the
13 home page of the website looked like in 2019
14 versus 2022.

15 Q. Do you know if there are any
16 changes to the home page between 2019 and
17 2002?

18 A. I don't know.

19 Q. And in this exhibit 4 that's up on
20 the screen right now, does exhibit 4 include
21 Dr. Wilder's name? Let me know if you need me
22 to scroll through.

23 A. Are you asking me if this
24 screenshot of the website today -- I'm not
25 sure what you're asking me.

1 S. Hoiland

2 Q. Is Dr. Wilder's name present in
3 this document?

4 A. Her name is on the home page of the
5 actual website. It's not on this PDF page
6 that you're showing me right now.

7 Q. All right. Let me pull up the
8 actual website. All right. So I have taken
9 exhibit 4 down from the screen and I'm sharing
10 the web browser which shows the link, I
11 clicked on the link on slide 8 of exhibit 2,
12 and this is the webpage that showed up.

13 ---

14 (Exhibit 5, NICHE hyperlink was
15 marked for identification)

16 ---

17 A. But if you scroll down, there's a
18 significant amount of content on the home
19 page. Right?

20 Q. I have scrolled from the top to the
21 bottom of this webpage.

22 A. Okay.

23 Q. Let me know if, maybe I can zoom
24 out you could see the whole thing at once?

25 A. So the website has changed. I do

S. Hoiland

2 not do the web content, that's Dr. Wilder's
3 role. So the page I'm looking at right now
4 does not have her name on it.

5 Q. All right. I'll take that down
6 from the screen. You said the website has
7 changed. How do you know that it has changed?

8 A. Well, so the last time I looked at
9 it I noticed there is a reference to the NICE
10 project, but no named PIs, and Dr. Wilder's
11 new project, the DARE project is listed with
12 herself and her co-PIs.

13 Q. On the webpage that we were just
14 looking at that was shared on the screen?

15 A. Not on that page. On the "about
16 NICHE" page.

17 Q. All right. So I have put back up
18 on the screen exhibit 2, slide 8. Do you see
19 that?

20 A. Yes.

Q. Other than the link shown on the last line of slide 8, does text of the PowerPoint reference the NICHE project?

24 A. Does it reference the NICHE
25 project? No.

1 S. Hoiland

2 Q. I am going to take that down for a
3 second and bring up a new document.

4 All right. Do you see that I've
5 brought up a new document on the screen?

6 A. Yes.

7 Q. And this is a document produced by
8 plaintiff in this action with Bates number
9 P665.

10 -----

11 (Exhibit 6, PowerPoint, Bates
12 P000665 was marked for identification)

13 -----

14 Q. Do you recognize this document?

15 A. It appears to be a PowerPoint
16 slide.

17 THE COURT REPORTER: Counsel, this
18 will be exhibit 5?

19 ATTORNEY HUDAK: Yes.

20 ATTORNEY LINN: I thought we were
21 up to 6.

22 ATTORNEY HUDAK: Are we marking the
23 webpage as exhibit 5? We could do that.

24 Exhibit 5 is the webpage that was just
25 shown. And then this will be exhibit 6.

1 S. Hoiland

2 THE COURT REPORTER: Thank you.

3 ATTORNEY LINN: We had marked one
4 webpage as exhibit 4, so ...

5 ATTORNEY ZOLOT: So the printed PDF
6 was exhibit 4 and the hyperlink she just
7 went through is 5 so now we're at 6? Is
8 that right?

9 ATTORNEY HUDAQ: Yes.

10 Q. All right. In the discussion of
11 the exhibits I think I missed your last
12 answer, Dr. Hoiland. So do you recognize the
13 exhibit that we have marked as exhibit 6 with
14 Bates number P 665?

15 A. This appears to be a PowerPoint
16 slide, but I don't know from what or when.

17 Q. Have you seen the image shown in
18 this document before?

19 A. The image of the tree and the
20 numbers? Yes. Dr. Wilder's used that image
21 before.

22 Q. Have you seen any of the text shown
23 on the document before?

24 A. I believe this slide might have
25 been included in one of the presentations we

1 S. Hoiland

2 did prior to the start of NICE.

3 Q. Have you seen the text on this page
4 anywhere else?

5 A. I don't believe so.

6 Q. Prior to beginning the NICE project
7 did you review materials given to you by
8 Dr. Wilder from the NICHE project?

9 A. I reviewed the modules, as I stated
10 earlier I was given access to the NICHE course
11 in Blackboard prior to the NICE project.

12 Q. Did the NICHE course in Blackboard
13 have videos included in it?

14 A. I believe so.

15 Q. Did you watch those videos?

16 A. I don't recall.

17 Q. Did those videos include a
18 copyright notice?

19 A. I don't recall.

20 Q. The document shown on the screen --
21 (Audio distortion.)

22 ATTORNEY LINN: You cut out. Was
23 there --

24 Q. The question was, does the document
25 shown on the screen right now, exhibit 6

1 S. Hoiland

2 include a copyright notice?

3 A. Yes.

4 ATTORNEY ZOLOT: Object; calls for
5 a legal conclusion.

6 Q. What does that copyright notice
7 say?

8 A. Are you asking me to read the
9 slide?

10 Q. Yes.

11 A. Copyright 2013. This presentation
12 is owned by CUNY NICHE. Unauthorized use of
13 the material in this presentation or any
14 summertime course material from NICHE is
15 strictly prohibited. Please note that all
16 sources referenced in this presentation are
17 indicated on our NICHE website
18 (www.teachqr.org.) Any questions regarding
19 the authorization for use of materials from
20 NICHE should be directed to Esther Isabelle
21 Wilder."

22 Q. In watching the videos included in
23 the NICHE materials did you review this
24 copyright notice anywhere in those videos?

25 ATTORNEY ZOLOT: Object to form.

S. Hoiland

2 A. I said I didn't recall watching
3 videos about copyright.

4 Q. Did you ever ask Dr. Wilder for
5 authorization to use NICHE materials?

6 ATTORNEY ZOLOT: Object to form.

7 A. So if by NICHE materials you mean
8 NICE materials, um, I did not.

9 Q. I am going to take exhibit 6 off
10 the screen. And do you see that I've shared a
11 new document on the screen?

12 A. Yes.

13 Q. This document was produced by
14 defendant in this action.

15 A. Yes.

16 Q. It has Bates numbers D 1 through
17 D 3.

18 ATTORNEY HUDAK: I'll mark this as
19 exhibit 7.

20 ---

21 (Exhibit 7, Presentation Proposal -
22 the Community College Conference on
23 Learning Assessment, Bates D0001 through
24 03 was marked for identification)

25 — — —

1 S. Hoiland

2 Q. Do you recognize this document?

3 A. Yes.

4 Q. And what do you recognize this
5 document to be?

6 A. So this was the electronic proposal
7 I submitted to the CCLA conference.

8 Q. I'll turn to page 2 of the document
9 which has Bates number D 2. Do you see page 2
10 on your screen?

11 A. Yes.

12 Q. All right. And do you see in the
13 third field down it says "I understand that my
14 presentation materials will be available on a
15 private website for attendees to download"?

16 A. Yes.

17 Q. And was your answer to that
18 question yes --

19 A. Yes.

20 Q. -- in your -- so the answer to that
21 question was yes in your application for the
22 CCLA conference?

23 A. Yes.

24 Q. So the CCLA PowerPoint we were
25 discussing earlier was available on a private

1 S. Hoiland

2 website for attendees to download, is that
3 correct?

4 A. That's my understanding. I never
5 went to that website or saw, or reviewed or
6 downloaded any of the presentations.

7 Q. And that website was available to
8 all attendees of the CCLA conference
9 regardless of which live presentations they
10 attended, is that correct?

11 ATTORNEY ZOLOT: Object to form.

12 A. I didn't have any personal
13 knowledge of that. Like I said, I never used
14 the website or logged into it. When I gave my
15 presentation it was waiting for me when I
16 walked into the room.

17 THE COURT REPORTER: Excuse me. I
18 think I lost you. Am I the only one?

19 ATTORNEY ZOLOT: I heard everyone
20 fine, Frank.

21 THE COURT REPORTER: I lost the
22 audio. "When I gave my presentation..."

23 A. -- it was already pulled up for me
24 on the screen.

25 THE COURT REPORTER: Thank you.

1 S. Hoiland

2 ATTORNEY HUDAK: All right. So
3 sorry. Just to confirm. Could you read
4 back the last question and answer you
5 have, so I know where you might have cut
6 off?

7 (Requested portion of the record
8 read back.)

9 ATTORNEY HUDAK: Thank you.

10 Q. I am going to take this document
11 down. I am going to put up a new document.

12 (Pause.)

13 Q. Do you see that I have showed a new
14 document on the screen?

15 A. Yes.

16 Q. This document was produced by
17 defendant in this case and has Bates number
18 D 4. I'll mark this as exhibit 8.

19 ---

20 (Exhibit 8, Intellectual property
21 license and photo release, Bates D0004
22 was marked for identification)

23 ---

24 Q. Do you recognize this document?

25 A. Yes.

1 S. Hoiland

2 Q. And what do you recognize this to
3 be?

4 A. This is the intellectual property
5 license and photo release form for the CCLA
6 conference.

7 Q. And is your signature shown on the
8 document?

9 A. Yes.

10 Q. And did you submit this signed
11 document to the organizers of the CCLA
12 conference?

13 A. Yes.

14 Q. Do you see that I've highlighted
15 some text on the screen?

16 A. Yes.

17 Q. And it says: "I am responsible for
18 obtaining the written consent of the owner of
19 copyrighted material (if I am not the owner);
20 and am responsible for the cost and fees of
21 such consents. I warrant that the materials
22 for which I am providing a license do not
23 violate the copyright, trade secret, trademark
24 or other intellectual or proprietary rights of
25 any third party or any applicable law,

9 Did I read that correctly?

10 A. Yes.

11 Q. Did you obtain the written consent
12 of any owner of copyrighted material prior to
13 making the CCLA -- prior to submitting your
14 CCLA PowerPoint to the organizers of the CCLA
15 conference?

16 ATTORNEY ZOLOT: Objection; calls
17 for a legal conclusion as to "copyright
18 owner."

19 A. So I had email back and forth about
20 this conference with Dr. Wilder and as a PI of
21 a project that relied upon these materials as
22 the basis for our funding and our
23 dissemination, I felt then and I still feel
24 today that I did not have to ask for
25 permission.

1 S. Hoiland

2 Q. So you did not obtain her written
3 consent to use any NICHE materials in the CCLA
4 PowerPoint, is that correct?

5 A. I did not get written consent to
6 use NICE materials.

7 Q. And you did not get written consent
8 to use NICHE materials?

9 A. Well, I wasn't on the NICHE
10 project, and I wasn't talking about the NICHE
11 project. I was talking about the NICE
12 project.

13 Q. Did you understand the modules that
14 are on Blackboard to have come from the NICHE
15 project?

16 ATTORNEY ZOLOT: Object to form.

17 A. I understand that the modules were
18 similar from NICHE to NICE.

19 Q. All right. I am going to take this
20 exhibit 8 off the screen. And I have put back
21 up exhibit 2. Do you see that?

22 A. Yes.

23 Q. All right. So earlier I believe
24 you testified that you gave -- you discussed
25 Dr. Wilder while making your oral presentation

1 S. Hoiland

2 at the CCLA conference, is that your position?

3 A. I did more than discuss Dr. Wilder.

4 Dr. Wilder's name came up many, many, many
5 times during the presentation. In fact, when
6 I left the presentation I thought that if she
7 was there, she would be embarrassed at how
8 much I spoke about her. I pointed her out in
9 the photos, if you want to scroll to those. I
10 explained, when I clicked on the NICE/NICHE
11 Teach QR website that there were two projects,
12 the first being NICHE, the second being NICE.

13 There was significant time and
14 attention given to Dr. Wilder throughout my
15 oral part of the presentation.

16 Q. Did you identify Dr. Wilder as the
17 author of any of the text shown in the CCLA
18 PowerPoint?

19 A. I recall saying that the assessment
20 unit was part of a larger project, which
21 included NICHE.

22 Q. And did you identify Dr. Wilder as
23 the author of the NICHE materials?

24 A. I don't recall if I used the term
25 "author."

1 S. Hoiland

2 That's a little bit out of the
3 particular context. I likely said something
4 that she created the materials with a team of
5 people that were part of a project called
6 NICHE.

7 Q. So you didn't give Dr. Wilder
8 credit for authoring the text shown in your
9 CCLA PowerPoint, is that correct?

10 ATTORNEY ZOLOT: Objection;
11 mischaracterizes the testimony.

12 A. No. That's not what I said.

13 Q. Then could you please explain what
14 you mean?

15 A. Sure. I gave Dr. Wilder all kinds
16 of credit, so much credit that when the
17 presentation was over, like I said, I thought
18 that she would be embarrassed if she were
19 there, because I referred to her so many
20 times. There was no one in that room that had
21 a doubt that Dr. Wilder, as indicated in the
22 conference interactive which was available to
23 everyone and public, that I was one of two
24 PIs, and that the NICE project came from the
25 NICHE project.

1 S. Hoiland

2 Q. Is Dr. Wilder the author of the
3 NICHE materials?

4 A. I think you've asked this before,
5 and I said to my knowledge she authored most
6 of the materials. At some later date
7 Dr. Wilder informed me that Dr. Wang had in
8 fact created parts of one of the modules.

9 Q. So we're looking at slide 8 of
10 exhibit 2 right now. Is Dr. Wilder the author
11 of the text shown on slide 8?

12 A. Again, I would assume so, but I was
13 not part of the NICHE project. So I don't
14 know who wrote what. I think it's safe to say
15 that Dr. Wilder wrote most of the materials in
16 NICHE.

17 Q. Turning to slide 7. Is Dr. Wilder
18 the author of the text shown on slide 7?

19 A. I think it's the same answer.
20 Again, I was not around at the creation of
21 these materials, so some of what I learned
22 about how they were created occurred after I
23 gave this presentation. My understanding was
24 that these materials were in the NICE project,
25 and that my job as a NICE PI was to talk about

1 S. Hoiland

2 the NICE project, which included these
3 materials. That's what we were funded to do.

4 Q. And turning to slide 9 of exhibit
5 2. Is Dr. Wilder the author of the text shown
6 on slide 9?

7 A. To the extent that I know, yes.

8 Q. And turning to slide 10. Is
9 Dr. Wilder the author of the text shown on
10 slide 10?

11 A. The text that's not in purple, to
12 the extent that I know, yes.

13 Q. And turning to slide 11. Is
14 Dr. Wilder the author of the text shown on
15 slide 11?

16 A. To the extent that I know, yes.

17 Q. And turning to slide 12. Is
18 Dr. Wilder the author of the text shown on
19 slide 12?

20 A. To the extent that I know, yes.

21 Q. Turning to slide 13. Is Dr. Wilder
22 the author of the text shown on slide 13?

23 A. With the exception of the green
24 text at the bottom, to the extent that I know,
25 yes.

1 S. Hoiland

2 Q. About how many people attended the
3 oral presentation you gave at the CCLA
4 conference?

5 A. So I can't say for certain. There
6 was no sign-in sheet. There was no record of
7 who was in the room. It was small, it was a
8 small room with several slat tables and I had
9 guesstimated there was somewhere around 15,
10 maybe 20 at the most. 12 at the least. I
11 mean it was under 20 people.

12 Q. Do you know any of the individuals
13 who attended the oral presentation you gave at
14 the CCLA conference?

15 A. No.

16 Q. Were there people who registered
17 for the CCLA conference that did not attend
18 your oral presentation?

19 ATTORNEY ZOLOT: Objection; calls
20 for speculation.

21 A. I mean I did not know how many
22 people registered for the conference until
23 recently, and I can tell you there were not
24 200 people in the room where I presented. So
25 I can infer that yes, not every conference

1 S. Hoiland

2 attendee was in my presentation.

3 Q. So it's your understanding that
4 about 200 people registered for the CCLA
5 conference?

6 A. As I said, the only way I knew
7 about this was because of discovery. So I did
8 not have any count. That's not something
9 that's provided to conference attendees.

10 Q. Where did you learn this
11 information in discovery?

12 A. I believe there was a document from
13 Rachel Meister, who was the CCLA organizer.

14 Q. Did you speak with Rachel Meister
15 about how many people were in attendance at
16 the CCLA conference?

17 A. No.

18 Q. Have you spoken with Rachel Meister
19 about this litigation?

20 A. I believe there was a phone call
21 when I was trying to get information about the
22 specifics about the presentation. When I had
23 filled out the document there was a long
24 period of time between checking the box and
25 the presentation and when all this started.

1 S. Hoiland

2 Q. Were there any emails with Rachel
3 Meister about this litigation?

4 A. I think so. If there were I would
5 have produced them.

6 Q. I am going to take this exhibit 2
7 off of the screen. Do you see that I have put
8 up a new document?

9 A. Yes.

10 Q. This is a document produced by
11 defendant in the litigation, which has Bates
12 numbers D 301 through D 304. I'll mark this
13 as exhibit 9.

14 ---

15 (Exhibit 9, email chain, Bates
16 D0301 through D0304 was marked for
17 identification)

18 ---

19 Q. Do you recognize this document?

20 A. Yes.

21 Q. What do you recognize this document
22 to be?

23 A. This is an email from myself to
24 Dr. Katherine Rowell.

25 Q. And who is Dr. Katherine Rowell?

1 S. Hoiland

2 A. She was the external evaluator for
3 the NICE project.

4 Q. What is this email chain
5 discussing?

6 A. Can you scroll down?

7 Q. Sure. And there's two more pages
8 so let me know when you need to scroll.

9 A. Yeah, you can scroll again.

10 So I was seeking guidance from a
11 trusted colleague who knew both Dr. Wilder and
12 myself, and was actually closer to Dr. Wilder
13 than me, their relationship had gone back
14 farther, and I was asking her for guidance on
15 what to do about some of the allegations that
16 Dr. Wilder was bringing against me through
17 email.

18 Q. And what allegations are you
19 referring to?

20 A. Well, you can pull up the emails
21 from August of 2019 between Dr. Wilder and
22 myself, but there were many things being put
23 out there that were very damning to my
24 professional reputation, and so I wanted to
25 seek mediation and find someone that could

1 S. Hoiland

2 help us to resolve the dispute.

3 Q. I'm on page 3 of the document.

4 A. Mm-hmm.

5 Q. Which has Bates number D 303. And
6 I am looking at the last email on that page
7 which is an email dated October 8, 2019 from
8 you to Katherine Rowell.

9 A. Mm-hmm.

10 Q. And I'm highlighting some text here
11 which says: "Yes, I absolutely agree that
12 Esther should have been a co-presenter and
13 that I should have included parenthetical
14 citations for Crystal's NICE assessment and
15 attributed the BB components to Esther's work
16 with NICE [sic] and that I" -- going on to the
17 next page --

18 ATTORNEY LINN: I think you
19 misspoke. It says "NICHE." Not NICE.

20 ATTORNEY HUDAK: Oh, I'm sorry.

21 Q. "Esther's work with NICHE and that
22 I" -- going to the next page -- "acknowledged
23 that in our various communications . . ."

24 Did I read that correctly?

25 A. Do you want to finish the sentence?

1 S. Hoiland

2 Q. Did I read the first part of the
3 sentence correctly?

4 A. Yeah. It just seems like finishing
5 the sentence is keeping it in context.

6 Q. Sure. Let's talk about the first
7 part of the sentence first. So do you agree
8 that Esther should have been a co-presenter on
9 the CCLA PowerPoint?

10 A. No.

11 Q. Why did you say that Esther should
12 have been a co-presenter to Katherine Rowell?

13 A. So at this point in time, this is
14 about eight weeks into a barrage of emails and
15 various things that were extremely concerning
16 to me. And so part of Dr. Wilder's initial
17 demands were to add her name, which I was
18 happy to do to close this matter and move on.

19 And because that was so important to
20 Dr. Wilder, I didn't have any issue with
21 adding her name.

22 But the way the conference was
23 structured, the reason that it's not referred
24 to as authorship in any of the conference
25 materials is because they were trying to line

1 S. Hoiland

2 up presenters. So there were photos of people
3 who were there so that you could see who the
4 person was that was presenting the material.

5 Q. So when you say here I absolutely
6 agree that Esther should have been a
7 co-presenter, that was untrue?

8 A. At the time my knowledge of
9 copyright, authorship, presenter is different
10 than it is now. So when I submitted it, I did
11 not believe that I should list Esther as a
12 presenter. Today I do not believe I should
13 have listed Esther as a presenter, because she
14 did not present.

15 During this particular period of
16 time I was under intense pressure to make this
17 go away from Dr. Wilder, and from everyone
18 around me. And so if it made Dr. Wilder feel
19 better to have her name as a co-presenter, I
20 was happy to do that and to say hey, I should
21 have done that in the first place.

22 Q. But that's not what's stated in
23 this email, is that correct?

24 A. That is not what is stated in this
25 email.

1 S. Hoiland

2 Q. The email also says that you agree
3 that you should have included parenthetical
4 citations for Crystal's NICE assessment?

5 A. Yes, I don't believe Crystal should
6 have been listed as a presenter either.

7 Q. Do you believe that you should have
8 included parenthetical citations for Crystal's
9 NICE assessment?

10 A. Yes.

11 Q. And why is that?

12 A. Because she was a participant in
13 our program and signed an IRB agreement.

14 Q. And what's an IRB agreement?

15 A. So I spoke about that earlier, that
16 outlined how we deal with human subjects in a
17 research project. So Crystal's and Esther's
18 role were very different. Crystal should have
19 had a parenthetical citation, because those
20 were materials created for the NICE project,
21 and she indicated she wanted her name
22 attached. So although I repeated her name and
23 also pointed out the photo of her and Esther
24 and myself during the presentation and
25 explained that that's who Dr. Rodriguez was

1 S. Hoiland

2 and where she worked and what she taught, and
3 that these were materials that she created for
4 the NICE project, it was not indicated on the
5 slide. And it should have been.

6 Q. And this email also states "but you
7 should have attributed the BB components to
8 Esther's work with NICHE."

9 Do you agree with that statement?

10 A. So when I gave the presentation I
11 did not, because I was talking about the NICE
12 project and giving full attribution in my oral
13 projection. Because the slides were, right?
14 At this point months later. So I gave the
15 presentation in February. This is October.
16 After Dr. Wilder's side by side breakdown it
17 would have been an additional safeguard for me
18 to include her name on the PowerPoint
19 presentation. Because what I said orally does
20 not appear on the PowerPoint presentation.

21 Q. When you refer to BB components,
22 you mean Blackboard components?

23 A. Yes.

24 Q. And these are the modules from
25 Blackboard that we were discussing earlier?

1 S. Hoiland

2 A. Yes.

3 Q. I am going to take that exhibit
4 down, which was exhibit 9. And do you see
5 that I have put up a new document on the
6 screen?

7 A. Yes.

8 ATTORNEY HUDAK: This document was
9 produced by defendant in this case and
10 has the Bates numbers D 41 to D 42. And
11 I'll mark this as exhibit 10.

12 ---

13 (Exhibit 10, email, Bates D0041
14 through 42 was marked for
15 identification)

16 ---

17 Q. Do you recognize this document?

18 A. Yes.

19 Q. What do you recognize it to be?

20 A. So this is an email that I sent to
21 the Committee on Professional Ethics, COPE,
22 through the American Sociological Association.

23 Q. What is the email generally
24 discussing?

25 A. So it's largely relating to me

1 S. Hoiland

2 asking for assistance from COPE to mediate
3 this dispute between Dr. Wilder and myself.

4 Q. I am going to be looking at the
5 second email starting at the bottom of page
6 D 41 and extending on to the next page. So
7 this is an email dated September 6, 2019. And
8 starting on page D 42, I have actually
9 highlighted some text that says "The issue
10 centers around a presentation I gave last
11 February in Orlando at a community college
12 conference on our collaborative project. I
13 made two mistakes by 1, not including her as a
14 co-presenter in absentia and 2, not including
15 a references page in my slideshow and
16 citations on each slide."

17 Did I read that correctly?

18 A. Yes.

19 Q. So here are you discussing the CCLA
20 PowerPoint oral presentation at the CCLA
21 conference?

22 A. Yes.

23 Q. And when you say "her" were you
24 referring to Dr. Wilder?

25 A. When it says I invited her to

1 S. Hoiland

2 co-present?

3 Q. Where it says "I made two mistakes
4 by not including her as a co-presentation in
5 absentia"?

6 A. Yes.

7 Q. Do you agree that you made a
8 mistake by not including Dr. Wilder as a
9 co-presenter on your CCLA PowerPoint?

10 A. No.

11 Q. And why not?

12 A. Well, for the same reasons I
13 mentioned before. So I was a lead principal
14 investigator of the NICE project. One of my
15 responsibilities and something that I had
16 budgeted funds to do was to present about the
17 NICE project at community college conferences.

18 And that's what I did. And I gave all kinds
19 of credit and attribution to Dr. Wilder.

20 However, she was not a presenter at that
21 conference.

22 As I said, there was a lot of
23 heated communication, several kind of
24 immediate things that made me very concerned
25 that this issue would turn into something

1 S. Hoiland

2 bigger, and so I was very willing to add her
3 name to the presentation in order to try to
4 make her feel better about what she perceived
5 as being harm to her.

6 Q. So is your statement in this email
7 that "I made two mistakes by 1, not including
8 her as a co-presenter in absentia," untrue?

9 A. When I wrote this email I was
10 actually looking for ASA to provide
11 professional guidance, which is why I emailed
12 them. So Dr. Wilder was very convincing that
13 what I had done was wrong. And I didn't
14 agree, but I was willing to agree in order to
15 try to resolve the issue.

16 So for me, as I said, a line on my
17 CV meant absolutely nothing. And whether I
18 presented alone or whether I presented with
19 two other people, it made no difference.

20 My concern was at -- depending on
21 what the date again is -- at some point I was
22 cut out of the Blackboard shell, which then
23 inhibited my ability to file and finish the
24 annual report, which is a requirement for me
25 as a PI.

1 S. Hoiland

2 Dr. Wilder was not willing to pay
3 me summer salary for the work that I had done
4 over the summer. I had retracted a proposal
5 for a conference that I had already been
6 accepted to just sort of out of fear that
7 Dr. Wilder would perceive it as me
8 misconstruing her work. And so I was doing my
9 best to end both the project and the
10 relationship with Dr. Wilder. And if it meant
11 adding her name to the presentation, I was
12 okay with that.

13 Q. So to repeat my question. Your
14 statement that "I made two mistakes by 1, not
15 including her as a co-presenter in absentia,"
16 you believe that statement to be untrue, is
17 that correct?

18 A. When I wrote this email I was
19 willing to maybe -- said maybe this was a
20 mistake. Right? I didn't think I made a
21 mistake, but I was willing to admit that I
22 made a mistake.

23 Q. You said I -- so the second mistake
24 listed here is "not including a references
25 page in my slideshow and citations on each

1 S. Hoiland

2 slide."

3 Do you agree that was a mistake?

4 A. No. So we had an entire proceeding
5 about that particular issue, and verbal
6 attribution was viewed as being sufficient to
7 provide acknowledgment and recognition.

8 Again, at this time I was being pressured into
9 moving in a direction that I did not feel
10 comfortable with, but that I was willing to go
11 if it appeased Dr. Wilder.

12 Q. So you made this representation
13 that you made a mistake by "not including a
14 references page in my slideshow and citations
15 on each slide," even though you believed that
16 to be untrue?

17 A. So I was writing to COPE in order
18 to get professional guidance and clarity. So
19 what I'm writing here is what Dr. Wilder told
20 me this is what you did wrong. So I'm writing
21 to them saying hey, maybe I made two mistakes,
22 right? Here's what they are. Can you help us
23 resolve this matter.

24 Q. So you represented that these were
25 mistakes, is that correct?

1 S. Hoiland

2 A. Yes.

3 Q. And then moving to the third
4 paragraph on this page, D 42. I have
5 highlighted some text. It says: I understand
6 failing to formally reference collaborators'
7 work is a serious violation."

8 Did I read that correctly?

9 A. The first half of the sentence,
10 yes.

11 Q. Do you believe that failing to
12 formally reference collaborators' work is a
13 serious violation?

14 A. I think that at the time that I
15 wrote this I was -- I felt very confident that
16 the reference that I provided, the verbal
17 attribution from beginning to end of the
18 presentation was sufficient. However, I had
19 gotten such strongly worded communication from
20 Dr. Wilder to signal that that was not
21 acceptable, that I was saying that this --
22 this is serious. I understand that these
23 allegations that she's bringing against me are
24 very serious. And I want to do whatever I can
25 to work with her and COPE through confidential

1 S. Hoiland

2 mediation to make this okay.

3 Q. So then that doesn't answer the
4 question, which was do you believe that
5 failing to formally reference a collaborators'
6 work is a serious violation?

7 A. Yes, I do believe that's true. But
8 as I said, I did reference her work. So if
9 her perception was that I did not, that's what
10 I'm saying in the email, is that I realize
11 this is serious. If my collaborator is not
12 believing that I provided sufficient
13 attribution, this is very serious.

14 Q. And the reference made to
15 Dr. Wilder at the CCLA conference was solely
16 oral, is that correct?

17 A. Well, no, the abstract had that I'm
18 one of two PIs. So on paper that everyone
19 saw, it was clear that I was not the sole PI
20 of this faculty development program. And as I
21 said, I also believe that when I went to the
22 project website, I went to the about NICHE
23 page, which has Dr. Wilder's name on it. And
24 as I also mentioned, I pointed out her photo
25 on several occasions and, yes, verbally

1 S. Hoiland

2 mentioned her name many, many, many times.

3 Q. But you did not credit her as the
4 author of the text shown in the CCLA
5 PowerPoint, correct?

6 ATTORNEY ZOLOT: Objection to form.

7 A. I gave her credit for the NICHE
8 project, which is where those materials came
9 from. So if you want to say that that's
10 authorship credit, then yes.

11 Q. Did you say that Dr. Wilder
12 authored the NICHE materials?

13 ATTORNEY ZOLOT: Objection; asked
14 and answered.

15 A. So to say that is ridiculous.
16 Right? That would -- I mean that's not
17 something that I would have said. Because
18 there was a much larger story that I was
19 telling. The slides were not the focus of the
20 presentation.

21 Q. Were you displaying the slides
22 while you were making the presentation?

23 A. For some of the presentation. But
24 a lot of it was question and answer at the
25 end.

1 S. Hoiland

2 Q. How much of the presentation was
3 question and answer?

4 A. It could have been up to a half an
5 hour.

6 Q. And how long was the total
7 presentation?

8 A. I don't recall. They're typically
9 between an hour and, I would say maybe
10 somewhere around an hour and fifteen.

11 Q. And how do you know that the
12 question and answer section lasted about a
13 half an hour?

14 A. Well, I recall from the
15 presentation that the faculty were not
16 interested in the particularities of the NICE
17 program. They had different kinds of
18 questions. So the audience was predominantly
19 community college faculty and their questions
20 were more related to things like how did you
21 recruit faculty? How much did you pay them?
22 How did you get faculty to complete work when
23 they're teaching four or five classes. Like
24 what are some best practices related to, you
25 know, working with a four year institution.

1 S. Hoiland

2 They were almost wholly unrelated
3 to the slides themselves.

4 Q. Were these questions asked
5 throughout the oral presentation or only at
6 the end?

7 A. I believe they were mostly at the
8 end. As I said, I didn't spend very much time
9 on the slides. I actually paused longer on
10 the photos. Participants were interested in
11 the students, kind of in the people part of
12 the project.

13 Q. I would like to take down this
14 exhibit, what we have marked as exhibit 10.

15 And do you see that I've put a new
16 document on the screen?

17 A. Yes.

18 ATTORNEY HUDAK: This is a document
19 produced by defendant in this action
20 with Bates numbers D 9 through D 12.

21 I'll mark this as exhibit 11.

22 ---

23 (Exhibit 11, email, Bates D0009
24 through 12 was marked for
25 identification)

1 S. Hoiland

2 ---

3 Q. Do you recognize this document?

4 A. Yes.

5 Q. What do you recognize this document
6 to be?

7 A. This is one of several emails
8 between myself and Crystal Rodriguez.

9 Q. And who is Crystal Rodriguez?

10 A. Crystal Rodriguez was a participant
11 in the NICE program, a professor -- an
12 assistant professor at Bronx Community College
13 of Criminal Justice.

14 Q. This is an email dated March 5,
15 2020. In the second paragraph it says:
16 "First and foremost, I should have emailed you
17 to ask your permission to showcase your
18 assessment materials for the presentation."

19 Did I read that correctly?

20 A. Yes.

21 Q. So do you believe that you should
22 have asked Crystal for permission to showcase
23 her assessment materials for the presentation?

24 A. Yes.

25 Q. And the presentation you're

1 S. Hoiland

2 referring to is the CCLA PowerPoint?

3 A. Yes.

4 Q. And is that because she signed the
5 IRB agreement stating that she wished to have
6 her material attributed to her if they were
7 used for the NICE project?

8 A. Yes.

9 Q. Is there any other reason?

10 A. Well, that's the primary reason.

11 I'm not sure I understand what you're asking.

12 Are there other reasons?

13 Q. Yes. Are there other reasons?

14 A. Well, so I wanted to show a
15 community college faculty's member's work that
16 was not my own, and Crystal's work, neither
17 Crystal's work nor any other community college
18 faculty's materials were on the public
19 website, the Teach QR website. So I did, I
20 felt badly that I should have asked her in
21 advance before I used her materials as an
22 example of what community college faculty are
23 doing. So outside the IRB I felt badly. I
24 should have asked her.

25 Q. Because it was her work product?

1 S. Hoiland

2 A. Um, that's part of it. But
3 there --

4 Q. What's the other part?

5 A. Well, there would be no assumption
6 that out of all our attendees I would have
7 selected hers. So had I selected someone that
8 I'm friends with, which was the case with many
9 of the NICE participants, you know, it could
10 have been a quick text or they would have been
11 more than happy for me to use their work and
12 to show what they were doing.

13 So my relationship with Crystal was
14 not that. And so I felt badly that I did not
15 send her a formal email in advance asking for
16 permission as per our IRB.

17 Q. And do you see that the email shown
18 on this first page, D 9, is partially cut off
19 on the bottom?

20 A. Yes.

21 Q. And turning to the next page, do
22 you see that the email is partially cut off on
23 the top?

24 A. I do.

25 Q. Is this page, D 10, a continuation

1 S. Hoiland

2 of the email chain shown on prior page, D 9?

3 A. Yes.

4 Q. Was there anything cut out in
5 between that email shown on D 9 and the email
6 shown on D 10?

7 A. Yes, there was an email from
8 Dr. Rodriguez to myself after we had agreed to
9 meet, it was fairly short saying -- I don't
10 recall the exact language and I'm not sure why
11 it's not here, but there was an email from her
12 before I sent the last email.

13 Q. And why was it cut out of this
14 document?

15 A. I didn't know it was not there
16 until I saw it yesterday.

17 Q. How did you prepare this document
18 when producing it?

19 A. How did I prepare my document
20 production?

21 Q. This particular document. Was it
22 printed out as an email chain and then scanned
23 in? Was there some other methodology that you
24 used to create this document?

25 A. I would have to check. Several of

1 S. Hoiland

2 these documents were submitted to prior

3 proceedings, so there were two other kind of

4 efforts in which we produced a lot of emails.

5 And so I don't know if it was from one of

6 those and I included it in this. I don't know

7 why that email is not there.

8 Q. But would you agree that the emails
9 shown on D 9 is a continuation of this chain
10 of email that's shown on D 10?

11 A. Yes.

12 Q. And thus if you printed out the
13 email and did not alter it, there would be
14 text shown in between that's shown on D 9 and
15 D 10?

16 ATTORNEY ZOLOT: Objection;
17 mischaracterizes the document.

18 A. Can you scroll back up? Do they
19 have all have the same subject title?

20 Q. I am on page D 9. Let me know when
21 you need to see D 10.

22 A. I don't know why that email -- I
23 mean if that email were there I think it would
24 complete the story. So I wish that email were
25 there. I'm not sure why it didn't get

1 S. Hoiland

2 included or where it is.

3 Q. So you said you became aware of
4 that missing email yesterday, is that correct?

5 A. Yes.

6 Q. Are you aware of any other
7 documents missing from defendant's document
8 production?

9 A. I am not aware of -- this is an
10 accidental omission. I did not intentionally
11 cut out part of an email. So I'm not aware of
12 any others.

13 Q. Did you intentionally cut out
14 portions of any other email?

15 A. No.

16 ATTORNEY ZOLOT: Objection;
17 mischaracterizes the testimony.

18 Q. I am going to take this exhibit 11
19 down. I have put up a new document on the
20 screen. Do you see that?

21 A. Yes.

22 ATTORNEY HUDAK: This is a document
23 produced by plaintiffs in this
24 litigation with Bates numbers P 553
25 through P 558. And I will mark this as

1 S. Hoiland

2 exhibit 12.

3 -----

4 (Exhibit 12, email, Bates P0000553
5 through 558 was marked for
6 identification)

7 -----

8 Q. Do you recognize this document?

9 A. Yes, it looks like the same email
10 you just showed.

11 Q. I'm scrolling on to the next page.
12 You were looking at the first page, which is
13 P 553. Now I have scrolled down to the next
14 page which is P 554. Does this still appear
15 to be the same email?

16 A. So this is the missing email, yes.

17 Q. And so the missing email is an
18 email from Crystal Rodriguez to you dated
19 February 24, 2020, is that correct?

20 A. Yes.

21 Q. And in the second paragraph of the
22 email Crystal says: "You never asked and I
23 never gave you permission to use my work in
24 your presentation."

25 Did I read that correctly?

1 S. Hoiland

2 A. Yes.

3 Q. And so is Crystal saying that she
4 never gave you permission to use her work in
5 your CCLA PowerPoint?

6 A. Yes.

7 Q. And then following, continuing on
8 in the sentence, it says "even when using my
9 work you did not give me credit, written and
10 verbal credit are always required when using
11 other's work."

12 Did I read that correctly?

13 A. You read that correctly.

14 Q. So would you interpret this
15 statement as Crystal saying that she was upset
16 that you did not give her credit in your CCLA
17 PowerPoint?

18 ATTORNEY ZOLOT: Objection; calls
19 for speculation.

20 A. I mean in that sentence I don't
21 read any disappointment in it. She's stating
22 what she sees as a fact. So she's saying even
23 when using my work you did not give me credit.

24 Which is not true.

25 Q. The next sentence says: "I am

1 S. Hoiland

2 disappointed in your lack of professionalism
3 and dishonesty."

4 Did I read that correctly?

5 A. Yes.

6 Q. So from that statement does Crystal
7 seem to be expressing disappointment with your
8 lack of credit in the CCLA PowerPoint?

9 ATTORNEY ZOLOT: Objection; calls
10 for speculation.

11 A. Her tone in this email was
12 dramatically different from the one that we
13 were just looking at, saying yes, I'll meet
14 you for coffee. I'll see you soon. So --

15 Q. That does not answer the question.

16 A. What is your question?

17 Q. Does the statement "I'm
18 disappointed in your lack of professionalism
19 and dishonesty" indicate that Crystal is
20 disappointed that you did not give her credit
21 in the CCLA PowerPoint?

22 ATTORNEY ZOLOT: Objection; calls
23 for speculation.

24 A. I think it's hard to tell whether
25 that sentence is about CCLA or about

1 S. Hoiland

2 conversations that she had afterward. I read
3 it as being conversations that she had with
4 Dr. Wilder.

5 Q. Is the prior sentence before "I am
6 disappointed in your lack of professionalism
7 and dishonesty" discussing your CCLA
8 PowerPoint?

9 A. Yes.

10 Q. And so you don't believe that the
11 sentence "I am disappointed in your lack of
12 professionalism and dishonesty" refers to the
13 CCLA PowerPoint?

14 ATTORNEY ZOLOT: Objection; calls
15 for speculation. You've asked this
16 three times. You're asking --

17 ATTORNEY HUDAK: She has not
18 answered.

19 ATTORNEY ZOLOT: How does she know
20 what Crystal is saying.

21 ATTORNEY HUDAK: You need to stop
22 the speaking objections. You can note
23 your objection for the record.

24 ATTORNEY ZOLOT: Yes, it's been
25 noted the three times you have asked.

1 S. Hoiland

2 A. Well, so the next sentence is not
3 about CCLA. It's about the NICE program.
4 It's much broader. And so when I read this
5 email, after getting the very friendly
6 correspondence from her, I think it was just
7 days earlier, it seemed as if there was some
8 type of intervention made that went from a
9 friendly yes, I would like to see you and talk
10 about this and have coffee to, I think it gets
11 a little bit worse, that I don't attend her
12 presentation.

13 Q. So that's not responsive to the
14 question. Again, the question is about the
15 sentence "I am disappointed" --

16 A. It's about the CCLA, and I'm saying
17 that the sentence following it is not about
18 CCLA. It's about the NICE program. So she
19 seems to be speaking in general terms, that
20 professionalism and dishonesty is larger than
21 CCLA. Which is why this particular email
22 upset me.

23 Q. So your testimony is that the
24 sentence, "I am disappointed in your lack of
25 professionalism and dishonesty," does not

1 S. Hoiland

2 refer to the CCLA PowerPoint, is that correct?

3 ATTORNEY ZOLOT: Objection;

4 mischaracterizes the testimony.

5 A. I'm saying I don't know what it
6 refers to. Because the context before is
7 CCLA. My bigger concern is the context
8 afterward, that it's the NICE program and now
9 it's extending into an entirely different
10 conference. And ESS is a conference for
11 sociologists.

12 Q. So the next sentence says "I
13 trusted you as a coordinator/lead faculty in
14 the NICE program."

15 Did I read that correctly?

16 A. Yes.

17 Q. So is Crystal discussing the
18 responsibilities of crediting work among
19 collaborators?

20 ATTORNEY ZOLOT: Objection; calls
21 for speculation.

22 A. That's not what that sentence says
23 to me. You would have to ask Crystal.

24 Q. And again this email that we're
25 looking at between -- from Crystal to you on

1 S. Hoiland

2 February 24, 2020 was not included in the
3 email chain, the same email chain that you
4 produced in your production, is that correct?

5 A. That's correct.

6 Q. So going back to Crystal's
7 statement "even when using my work you did not
8 give me credit. Written and verbal credit are
9 always required when using other's work."

10 Do you consider that to be a
11 complaint to you about misuse of Crystal's
12 intellectual property?

13 ATTORNEY ZOLOT: Objection to form.

14 A. I don't know.

15 Q. Why don't you know?

16 ATTORNEY ZOLOT: Object to form.

17 A. I don't know what Crystal was
18 thinking when she was writing this email. She
19 produced curriculum for the NICE project,
20 which was to be used for learning purposes.

21 Q. Have you received complaints from
22 any other individuals regarding misuse of
23 their intellectual property?

24 A. No.

25 Q. When others complain -- strike

1 S. Hoiland

2 that.

3 When you receive a complaint, an
4 email from a person stating that credit was
5 not given for use of the work, do you consider
6 that a complaint about intellectual property?

7 ATTORNEY ZOLOT: Objection; calls
8 for speculation. Is that a
9 hypothetical?

10 ATTORNEY HUDA: Your objection is
11 noted.

12 A. I don't know what you're asking.

13 Can you rephrase?

14 Q. How would you know if somebody is
15 making a complaint of intellectual property
16 misuse against you?

17 ATTORNEY ZOLOT: Object to form.

18 A. Well, one way is they sue you.

19 Q. Are there any other ways?

20 A. I really don't know what you're
21 asking. How do I know when someone is making
22 a complaint against me?

23 Q. Yes.

24 A. They say they're making a complaint
25 against me. I'm literally completely lost.

1 S. Hoiland

2 I'm not trying to dodge the question. I don't
3 know what you're asking.

4 Q. Sure. So you testified before that
5 you can't tell what Crystal was thinking based
6 on this email, is that correct?

7 A. That's correct.

8 Q. And you do not consider this to be
9 a complaint to you that you misused Crystal's
10 intellectual property?

11 ATTORNEY ZOLOT: Objection;
12 mischaracterizes the testimony.

13 A. She's not saying intellectual
14 property. So if you want me to read something
15 into it that's not there, I can't do that. If
16 you're talking about credit, credit is there.

17 Q. Let me take this document off the
18 screen.

19 (Pause.)

20 Q. So you were just looking at exhibit
21 12, which I took down. And I'm putting up a
22 new document. Do you see that I've shared a
23 different document?

24 A. Yes.

25 Q. So this document is titled

1 S. Hoiland

2 Responses and Objections to Plaintiff's Second
3 Set of Interrogatories to Defendant. It was
4 served by defendant on plaintiff in this
5 litigation. I'll mark this as exhibit 13.

6 ---

7 (Exhibit 13, Responses and
8 Objections to Plaintiff's Second Set of
9 Interrogatories to Defendant was marked
10 for identification)

11 ---

12 Q. Do you recognize this document?

13 A. I'm not sure if this went to my
14 attorneys or to me. This likely went to my
15 attorneys.

16 Q. So you did not review this document
17 before?

18 A. I would say that since my attorney
19 signed it, that the content in it reflects
20 their responses to the responses and
21 objections.

22 ATTORNEY ZOLOT: Sandra, maybe just
23 start at page 1 and scroll through
24 and --

25 ATTORNEY HUDAK: Yes, I have

1 S. Hoiland

2 scrolled through it.

3 Q. Dr. Hoiland, if would you like me
4 to scroll slower just let me know?

5 A. You can scroll a little slower.

6 ATTORNEY ZOLOT: You started and
7 then you went to the last page. I think
8 you just confused her as to what this
9 document is. So just start at 1, scroll
10 through and have her look at the whole
11 document.

12 ATTORNEY HUDAK: Sure.

13 ATTORNEY ZOLOT: And see if she
14 understands what it is.

15 Q. Dr. Hoiland, please let me know
16 when you need me to scroll up?

17 A. Yes, you can scroll up. I've seen
18 this page. Keep going. Okay.

19 Okay.

20 Okay. Yes, I recognize the
21 document.

22 Q. Have you reviewed this document
23 before?

24 A. Yes.

25 Q. So I have scrolled -- do you want

1 S. Hoiland

2 me to keep scrolling through the document?

3 A. It's okay.

4 Q. Dr. Hoiland, I am looking at the
5 bottom of the page, which says interrogatory
6 No. 18. Describe in detail the facts and
7 circumstances concerning prior copyright
8 complaints received by you, including without
9 limitation, any communications alleging that
10 you plagiarized another person's work.

11 Did I read that correctly?

12 A. Yes.

13 Q. Do you consider the email we were
14 just looking at from Crystal Rodriguez, which
15 was marked as exhibit 12, to be a copyright
16 complaint received by you?

17 A. No.

18 Q. Why not?

19 A. Well, this is a legal document, so
20 complaint sounds formal to me. And secondly,
21 Dr. Rodriguez's email is related to the same
22 presentation that we're talking about today.
23 The reason that Dr. Rodriguez had issue with
24 that particular presentation is because
25 Dr. Wilder told her that she should have an

1 S. Hoiland

2 issue with that presentation. So I did not
3 see that email as being outside the current
4 litigation or the current complaint.

5 Q. So just to be clear, you do not
6 consider Crystal's email we were just looking
7 at to be a copyright complaint received by you
8 because it's related to the issues in this
9 litigation?

10 A. Well, it says prior copyright
11 complaint, so I would assume that's before the
12 presentation that's being discussed.

13 Q. So you did not consider in
14 answering this interrogatory any copyright
15 complaints received by you after the CCLA
16 conference?

17 ATTORNEY ZOLOT: Objection to form.

18 A. I don't consider that email a
19 copyright complaint. So my answer is no.

20 Q. So there was no time limitation
21 imposed on this interrogatory, is that
22 correct?

23 ATTORNEY ZOLOT: Objection; vague.

24 A. I'm not sure what you're asking.

25 Q. Sure. So we read the interrogatory

1 S. Hoiland
2 on page 6, and then there's a response from
3 defendant on page 7, which says defendant
4 states as follows: "Dr. Hoiland has not
5 received prior copyright complaints or any
6 prior communications alleging that she
7 plagiarized another person's work."

8 So I believe that you have
9 testified that Crystal's email does not fall
10 into this category, and I'm trying to
11 understand what you're reasoning is for that?

12 A. So I spoke with counsel about that
13 and I don't believe I'm --

14 ATTORNEY ZOLOT: Objection. I just
15 want to counsel my witness not to reveal
16 any attorney-client privileged
17 communications.

18 Q. Yes, so without discussing what
19 your attorneys told you, I believe you
20 testified before that you don't think that
21 Crystal's email is a copyright complaint, and
22 I'm trying to understand the reason for that?

23 A. Well, I read this and I wondered if
24 it was a trick, trying to confuse me, and so I
25 asked --

1 S. Hoiland

2 Q. Again, I don't want -- I don't want
3 to know what your attorneys told you.

4 A. I understand. I'm trying to
5 finish.

6 Q. Sure.

7 A. -- and I was counseled. And so my
8 response here is -- is what it is. I have not
9 received any prior copyright complaints.

10 Q. Has anyone ever contacted you to
11 complain about your use of their work without
12 giving them credit for being the author of
13 that work?

14 A. Are you referring to
15 Dr. Rodriguez -- are you saying outside
16 Dr. Rodriguez's email in the current
17 litigation?

18 Q. Sure.

19 A. I didn't hear you.

20 Q. I said sure, let's impose that
21 limitation.

22 A. Outside of the CCLA presentation I
23 have not had any copyright complaints or
24 communications.

25 Q. And so just to be clear, you

1 S. Hoiland

2 excluded Crystal's email from this answer, but
3 then you -- which you say is not a copyright
4 complaint, but then you say you haven't
5 received any copyright complaints?

6 A. I said outside the CCLA
7 presentation. Crystal's email is related to
8 the CCLA presentation.

9 Q. Again I am trying to understand
10 what you consider to be a copyright complaint.
11 You said before you do not consider Crystal's
12 to be a copyright complaint. So I just would
13 like you to answer the question: Have you
14 received complaints from anyone regarding your
15 lack of giving them credit for use of their
16 work in your materials?

17 A. No.

18 Q. I am going to take this exhibit 13
19 off the screen.

20 (Pause.) And I have put up a new
21 document. Do you see that I've showed a new
22 document?

23 A. Yes.

24 ATTORNEY HUDAK: And this is a
25 document produced by defendant in this

1 S. Hoiland

2 litigation which has Bates numbers D 69
3 through D 72.

4 THE WITNESS: Yes.

5 ATTORNEY HUDAK: Which I will mark
6 as exhibit 14.

7 -----

8 (Exhibit 14, preliminary inquiry
9 report, Bates D0069 through 72 was
10 marked for identification)

11 -----

12 Q. Do you recognize this document?

13 A. Yes.

14 Q. And what do you recognize this
15 document to be?

16 A. These are the findings from the
17 research integrity officer related to the
18 inquiry Dr. Wilder initiated against me.

19 Q. And the research integrity
20 officer's name is Dr. Yoel Rodriguez, is that
21 correct?

22 A. Yoel Rodriguez, yes.

23 Q. And he works at Hostos Community
24 College?

25 A. Yes.

1 S. Hoiland

2 Q. And I have scrolled to the last
3 page of the document, which has Bates number
4 D 72 and I'm reading from the last paragraph:
5 "I would recommend asking Dr. Hoiland to sign
6 a letter of understanding."

7 Did I read that correctly?

8 A. Yes.

9 Q. And he lists a number of things
10 that should be included in that letter of
11 understanding. Is that correct?

12 A. Yes.

13 Q. And number 5 says "being aware of
14 acknowledging all co-authors, collaborators,
15 funding agencies in writing when presenting
16 using, for example, PowerPoint presentation."

17 Did I read that correctly?

18 A. Yes.

19 Q. And what does being aware of
20 acknowledging all co-authors, collaborators,
21 et cetera, mean?

22 A. Well, I think the being aware part
23 goes along with where we are today, right? So
24 that if one is making a presentation based on
25 years of working with someone and an assumed

1 S. Hoiland
2 trust, that doesn't necessarily translate to
3 that relationship being based on trust and a
4 collegial relationship and friendship over the
5 years. So to cover your butt, cite.

6 Sandra, you froze.

7 Q. In other words you're saying that
8 when using -- sorry. So in other words he's
9 saying that when using the work of any
10 co-authors or collaborators, use of that
11 material should be acknowledged, is that
12 correct?

13 A. So I think these recommendations
14 are there in part to try to please both sides.
15 So the paragraph before says that there is no
16 recommendation for an investigation for
17 research misconduct. Right? So that's my
18 side.

19 However, the person who filed the
20 complaint had serious concerns. And so the
21 recommendations are in part to try to
22 ameliorate the situation in a way that it's
23 being viewed that the person is also getting
24 some kind of -- that she's also getting
25 something.

1 S. Hoiland

2 So if I'm being cleared from
3 research misconduct then here's what we're
4 going to give to Professor Wilder. I wrote a
5 detailed response which I included in my
6 discovery to these particular recommendations
7 saying I have grave concerns that these
8 recommendations could be construed that I did
9 something wrong, and your inquiry found that I
10 did not do these things wrong. And I asked
11 for something to be signed by both Dr. Wilder
12 and myself. And it was not.

13 Q. Did you sign a letter of
14 understanding with these seven items?

15 A. I believe I signed a document at
16 the end of this with my addendum.

17 Q. Was that document produced in
18 discovery?

19 A. Yes. The letter I wrote? Yes.

20 Q. And that was a letter of
21 understanding?

22 A. No. What I wrote was a response to
23 this.

24 Q. Have you ever signed a letter of
25 understanding, referred to by Yoel Rodriguez?

S. Hoiland

2 A. No. I don't believe so.

3 Q. And in the prior paragraph
4 Dr. Rodriguez says "I conclude that an
5 investigation is not warranted. While it was
6 not an easy decision, I did not find
7 sufficient evidence to support an
8 investigation into plagiarism. Rather, I
9 found this case to be more of an authorship
10 dispute than plagiarism."

11 Did I read that correctly?

12 A. Yes.

13 Q. And what is your understanding of
14 an authorship dispute?

15 A. I'm not sure I can say what he
16 thinks an authorship dispute is. The issue
17 here was plagiarism, and he's saying that in
18 part it's a communication issue, because these
19 things weren't discussed in advance. That's
20 his next sentence.

21 Q. And he says it was not an easy
22 decision, correct?

23 A. What's that?

24 Q. And Dr. Rodriguez says it was not
25 an easy decision, correct?

1 S. Hoiland

2 A. Well, he says that, yes.

3 ATTORNEY HUDAK: I am going to take
4 this document off the screen.

5 Let's take a short break. Let's go
6 off the record.

7 THE COURT REPORTER: We're off the
8 record.

9 -----

10 (Recess from 3:30 to 3:42.)

11 -----

12 ATTORNEY HUDAK: All right. Back
13 on the record after a short break.

14 Q. I am going to bring back up exhibit
15 2. So you should be seeing slide 17 of
16 exhibit 2. Do you see that, Dr. Hoiland?

17 A. Yes.

18 Q. Okay. And this is one of the
19 slides from your CCLA PowerPoint, correct?

20 A. Yes.

21 Q. And at the bottom of the page it
22 says sources and data notes, and then it gives
23 a web address. Do you see that?

24 A. Yes.

25 Q. Did you add that text to this

1 S. Hoiland

2 slide?

3 A. No.

4 Q. And so it was in the material that
5 you copied and pasted from, correct?

6 A. It was in Dr. Rodriguez's
7 curricular lesson plans.

8 Q. Do you know if Dr. Rodriguez added
9 that statement, sources and data notes with
10 the webpage?

11 A. I have no idea what Dr. Rodriguez
12 added.

13 Q. Would you consider that statement,
14 sources and data notes with the webpage a
15 citation to the source of the material?

16 A. It's not a full citation. It's a
17 link to the website.

18 Q. Do you ever include citations
19 whether full or in website form, on PowerPoint
20 presentations that you create?

21 A. Yes.

22 Q. And how do you decide to include a
23 citation on a PowerPoint slide?

24 A. So I would say generally, if I'm
25 presenting a paper or something that is based

1 S. Hoiland
2 on research, so for example, that the ESS
3 conference that I was attending with
4 Dr. Rodriguez, I was being given an award for
5 a paper that I had written and submitted
6 several months before the conference. And so
7 the presentation I gave for that paper was a
8 PowerPoint, and included several full
9 citations and a bibliography.

10 Q. And why did you include a
11 bibliography in that presentation?

12 A. I created a bibliography for that
13 one because it was a paper presentation. It's
14 a different kind of presentation.

15 Q. Are there any other circumstances
16 when you need to include citations other than
17 a paper presentation?

18 A. I think the question is really
19 broad. I mean there are many different types
20 of presentations that can occur at these
21 conferences. The conferences themselves are
22 pretty different. So it's a hard question to
23 answer. I can give you more examples, if you
24 like.

Q. When do you decide to include a

1 S. Hoiland

2 citation on a PowerPoint slide? And you can
3 give it by examples and then we can discuss
4 those examples.

5 A. Well, generally I don't -- I don't
6 like to give PowerPoint presentations. My
7 presentations for many years have been much
8 more interactive, including students,
9 including activities, including
10 demonstrations. So presenting like a full
11 research paper is something I don't do very
12 often. In those contexts in which a paper --
13 in this case I was presenting a book chapter
14 that will be published, and so most of the
15 research was my unique research. But when I
16 did pull from other sources that were central
17 to my arguments, I included citations to those
18 authors. They were outside the work that I
19 was doing.

20 Q. How many presentations would you
21 say that you've created with a PowerPoint deck
22 in your career?

23 A. In my career? Um, I don't know.
24 It would be very difficult to estimate that.
25 I mean my CUNY CV lists what I've done at

1 S. Hoiland

2 CUNY. But I was a professor in Florida for
3 five years before that. I don't know.

4 Q. Was it more than one?

5 A. Yes.

6 Q. Was it more than five?

7 A. More than five PowerPoint
8 presentations I've created?

9 Q. Yes.

10 A. For class? for conferences? Are we
11 talking in general?

12 Q. In any context. About how many
13 PowerPoint presentations do you believe that
14 you've created?

15 A. A lot.

16 Q. More than 50?

17 A. Probably.

18 Q. More than a hundred?

19 A. I'm not sure if I could say more
20 than a hundred.

21 Q. So roughly speaking, between 50 and
22 a hundred, possibly more than a hundred? But
23 in that general ballpark, is that correct?

24 A. Yes.

25 Q. And in approximately what

1 S. Hoiland

2 percentage of these PowerPoints would you say
3 that you draw on materials created by others,
4 meaning not your own written authorship but
5 drawn from the work of others?

6 ATTORNEY ZOLOT: Objection; vague.

7 A. Well, I would say in most cases any
8 work that someone does is influenced by the
9 work of others. Creating a completely unique
10 idea that's just yours is not really what we
11 do in academia. There's always people to pull
12 from.

13 Q. And how do you decide when to
14 include a citation on a PowerPoint slide that
15 includes materials influenced by others?

16 A. Well, I would say that when I'm
17 creating PowerPoints for my classes, which is
18 something I used to do, I don't really use
19 PowerPoint anymore, I include citations to any
20 thinkers that have contributed unique ideas.
21 It's important that students understand the
22 sociologists that have contributed these.

23 Q. In any other circumstances do you
24 include citations on PowerPoint slides?

25 A. There are potentially many

1 S. Hoiland

2 circumstances. I don't -- I mean it's kind of
3 hard to just draw from nothing. If you want
4 to show me something I can -- I can tell you.

5 I mean if I were using something
6 like this in class, like slapping a link down
7 there is not exactly like how I would cite
8 that. But certainly you would make sure that
9 students understand that this is not a chart
10 that you created and explain that to them.

11 Q. Okay. So I believe you're
12 referencing this slide 17 of exhibit 2 that
13 we're looking at, and you say that the
14 citation on this page is not how you would
15 have cited to the source of this information.
16 Is that a proper characterization of your
17 testimony?

18 A. Yes.

19 Q. All right. And how would you have
20 cited this information differently?

21 A. So there's a way to cite sources
22 that involves more than dropping a web link.

23 Q. Do you believe that any citation
24 should include more than a web link?

25 A. I mean I don't know exactly what

1 S. Hoiland

2 you're asking. I mean there are variations in
3 the way that people choose to cite. In this
4 case Dr. Rodriguez chose to drop a website
5 link. That's one way to cite.

6 Another would be to include the
7 title of the webpage, and author if there is
8 one. And the other pertinent information like
9 the year and so on and so forth.

10 If it were in a paper it would
11 require something different, right? That
12 would absolutely require the full citation.

13 Q. So if you are creating a PowerPoint
14 presentation for use, for display at a
15 conference and you quote from another person's
16 work, would you include a citation on that
17 PowerPoint slide?

18 ATTORNEY ZOLOT: Objection; lacks
19 foundation.

20 A. Well, so in this case it's a
21 website link. So including a hyperlink or
22 some kind of link to the source is one way to
23 indicate attribution.

24 Q. I am asking about your process for
25 creating PowerPoint presentations and citing

1 S. Hoiland

2 other people's work. So if you were creating
3 a PowerPoint presentation for display at an
4 academic conference and you quoted to another
5 person's work, would you include a citation on
6 that PowerPoint slide?

7 A. It depends.

8 Q. On what?

9 A. Well, I think it depends on -- I
10 mean if you're asking specifically about the
11 CCLA presentation or you're asking in general.
12 I'm not sure -- you want me to answer in
13 general?

14 Q. Yes.

15 A. Okay. I mean I think in general if
16 the work is wholly outside the work that one
17 is involved or engaged in, then it should be
18 cited.

19 If the work is sort of internal and
20 it's part of a project or something you're
21 working on, like a full citation basically to
22 yourself is a little strange.

23 Q. So is it your position that if you
24 quote to somebody's work on a PowerPoint slide
25 who's outside of your organization, you always

1 S. Hoiland

2 must include a citation?

3 ATTORNEY ZOLOT: Objection;

4 mischaracterizes the testimony.

5 A. Like I said, I think it really
6 depends. I mean I've been to many
7 presentations by top scholars, which I tended
8 to notice a little bit more after all of this
9 started between Dr. Wilder and myself, that
10 the format at professional conferences,
11 including ESS and ASA can often be very
12 informal. People show a slide deck. I saw
13 several top scholars at ESS that didn't
14 include a single citation and they would
15 credit their co-authors verbally and had
16 nothing in their written materials about their
17 co-authors.

18 So like I said, the context is
19 generally one in which people tend to sort of
20 trust what people say, and so the PowerPoint
21 often serves a different role than, say, a
22 paper.

23 So again it depends on the context.
24 Generally I think there is a level of
25 professionalism that's assumed. And so, you

1 S. Hoiland

2 know, if I heard a presentation where there
3 were two co-authors and only one author was
4 listed on the program, one author was listed
5 on the PowerPoint, and they say my coauthor
6 can't be here, da, da, da, and proceeded. And
7 there was no written reference to that person.

8 Q. So do you believe you can always
9 quote the work of a colleague without giving
10 them credit in the PowerPoint slide?

11 ATTORNEY ZOLOT: Object to form.

12 A. I didn't say that. I didn't say
13 not giving credit. And I didn't say quote. I
14 said I think there's a general understanding
15 that when people are working closely together,
16 particularly for long periods of time, it's
17 assumed that the work that's being presented
18 is the work of the project or the book or the
19 whatever is being talked about.

20 Q. So is it your position that when
21 you quote the work of a colleague you never
22 have to include a citation -- a written
23 citation to their work?

24 ATTORNEY ZOLOT: Object to form.

25 A. I didn't say that.

1 S. Hoiland

2 Q. When do you need to include a
3 citation to a colleague's work?

4 ATTORNEY ZOLOT: Objection; asked
5 and answered.

6 A. So as I mentioned, what I would say
7 today, sitting here, is that you never know
8 what your colleague might think or say or
9 accuse you of. So the kind of implicit
10 relationship that one has with someone, with
11 whom one is working closely, cannot be
12 assumed.

13 So if I were to advise a junior
14 colleague or a colleague at all I would say be
15 careful, and do it as a precautionary measure.
16 Not because it's sort of the norm of the
17 discipline.

18 Q. If a coauthor makes a PowerPoint
19 presentation without the name of the other
20 coauthor on it, is it assumed that the work in
21 that presentation came from both coauthors?

22 ATTORNEY ZOLOT: Objection; vague.

23 Lacks foundation.

24 A. I don't know if I can say what
25 other people assume. But I certainly have

1 S. Hoiland

2 been to a number of presentations in which one
3 person is talking about the work of more than
4 one person or a team. I've certainly been in
5 other collaborative projects in which someone
6 else has presented my work and my name has not
7 showed up.

8 And again there's kind of an
9 underlying basis in academia that your work is
10 recognized.

11 Q. When you say that in academia you
12 expect that your work will be recognized, you
13 mean that you expect that others will cite
14 your work when quoting from it?

15 A. I think there's generally an
16 expectation that we don't have reason to
17 suspect other people of ill intent, and that
18 generally speaking, like since we're actually
19 paying to go to these conferences and putting
20 in far more hours than we ever get compensated
21 for, you know the idea is not one of a
22 commercial enterprise, in which I'm trying to
23 take what someone else has, because it's about
24 generally helping students and helping other
25 faculty.

1 S. Hoiland

2 Q. So are you saying you don't need to
3 be too concerned about including proper
4 citations in a presentation given in an
5 academic setting?

6 ATTORNEY ZOLOT: Object to form.

7 A. That's not what I said. I actually
8 said the opposite; that given what I've been
9 through over the last three years, I now
10 unfortunately have sort of an attitude in
11 which I see what can happen when someone
12 misconstrues someone else's integrity or
13 intent, or what is said in a presentation.

14 Q. You are employed by Hostos
15 Community College, is that correct?

16 A. Yes.

17 Q. And Hostos is part of the CUNY
18 system?

19 A. Yes.

20 Q. Are you familiar with the academic
21 integrity policy of CUNY?

22 A. Yes.

23 ATTORNEY HUDAK: I would like to
24 take down exhibit 2 from the screen.

25 I'll put up a new document. (Pause.)

1 S. Hoiland

2 Do you see that I've put a new
3 document on the screen.

4 THE WITNESS: Yes.

5 ATTORNEY HUDAK: This document was
6 produced by plaintiffs in this case with
7 Bates numbers P 649 through P 654. I'll
8 mark this as exhibit 15.

9 ---

10 (Exhibit 15, academic integrity
11 policy Bates P000649 through 654 was
12 marked for identification)

13 ---

14 Q. Do you recognize this document?

15 A. Yes.

16 Q. And what do you recognize it to be?

17 A. This is the academic integrity
18 policy.

19 Q. Of CUNY?

20 A. Yes.

21 Q. So I have scrolled to the second
22 page of the document, which has the heading
23 under P 650. I am looking at section 1.2,
24 which says, "Plagiarism is the act of
25 presenting another person's ideas, research,

1 S. Hoiland

2 or writing as your own. Examples of
3 plagiarism include: Copying another person's
4 actual words or images without the use of
5 quotation marks and citations attributing the
6 words to their source."

7 Did I read that correctly?

8 A. Yes.

9 Q. So turning back to exhibit 2,
10 looking at slide 9, I believe you testified
11 before that the text on this slide was
12 authored by Dr. Wilder. Does this text
13 include the use of another person's actual
14 words without the use of quotation marks and
15 footnotes attributing the words to their
16 source?

17 A. Yes.

18 Q. So under CUNY's definition of
19 plagiarism, does this slide 9 of exhibit 2
20 plagiarize Dr. Wilder's work?

21 ATTORNEY ZOLOT: Object to form.

22 A. Well, after a lengthy two-month
23 inquiry with hours of zoom interviews with the
24 research integrity officer, the people who
25 were selected to decide whether this is

1 S. Hoiland

2 plagiarism, using that same policy, said no.

3 Q. Under the words of the policy the
4 slide uses another person's actual words or
5 images without the use of quotation marks and
6 footnotes attributing the words to their
7 source. Correct?

8 ATTORNEY ZOLOT: Object to form.

9 A. There are not quotation marks on
10 this slide.

11 Q. Nor is there a footnote attributing
12 the words to their source, correct?

13 A. Correct.

14 Q. I am taking down exhibit 2 and I am
15 going to put up a new document. Do you see
16 that I have shared a new document on the
17 screen?

18 A. Yes.

19 Q. And this document was produced by
20 plaintiff in this litigation with Bates
21 numbers P 273 to P 293.

22 ATTORNEY HUDAK: And I will mark
23 this as exhibit 16.

24 ---

25 (Exhibit 16, American Sociological

1 S. Hoiland

2 Association's Code of Ethics, Bates
3 P000273 to 293 was marked for
4 identification)

5 ---

6 Q. Do you recognize this document?

7 A. Yes.

8 Q. What do you recognize this document
9 to be?

10 A. This is the American Sociological
11 Association's Code of Ethics.

12 Q. And are you a member of the
13 American Sociological Association?

14 A. Yes.

15 Q. And so as a member of the American
16 Sociological Association have you pledged to
17 uphold the American Sociological Association's
18 code of ethics?

19 A. Yes.

20 Q. I have scrolled down to page 16 of
21 the document which has Bates stamp P 288. It
22 says under section 13, Plagiarism.

23 Sociologists do not present others' work as
24 their own, whether it is published,
25 unpublished, or electronically available."

1 S. Hoiland

2 Did I read that correctly?

3 A. Yes.

4 Q. So do you agree that in the field
5 of sociology, sociologists are expected not to
6 present others' work as their own, whether in
7 published form, unpublished form or
8 electronically available form?

9 A. Yes.

10 Q. I am going to take down exhibit 16.
11 I'll put up a new document. (Pause.)

12 Do you see that I have shared a new
13 document on the screen?

14 A. Yes.

15 Q. This document was produced by
16 plaintiff in this case with Bates number P 294
17 to P 298. And I'll mark this as exhibit 17.

18 ---

19 (Exhibit 17, screenshot, Bates
20 P000294 through 298 was marked for
21 identification)

22 ---

23 Q. Do you recognize this document?

24 A. This looks like a screenshot from a
25 class that I teach at Hostos.

1 S. Hoiland

2 Q. And what's the name of that class?

3 A. It is a Capstone class titled Bronx
4 Beautiful.

5 Q. And did you write the text that's
6 shown in this exhibit 17?

7 A. Well, the course description was
8 created before I started teaching the course,
9 so that's a general course description that's
10 found in the course catalog. And as faculty
11 we are not allowed to alter that.

12 Q. I have scrolled down to page 4 of
13 the document, which is page P 297. And I'm
14 looking at the second full paragraph here that
15 says: "Plagiarism is also prohibited as part
16 of the college Academic Integrity Policy,
17 spelled out in the course catalog."

18 Did I read that correctly?

19 A. Yes.

20 Q. Do you agree with that statement?

21 A. Yes.

22 Q. And then it says: "Plagiarism is
23 the act of presenting another person's ideas,
24 research or writings as your own."

25 Did I read that correctly?

1 S. Hoiland

2 A. Yes.

3 Q. Do you agree with that statement?

4 A. Yes.

5 Q. And then it says: "Internet
6 plagiarism is covered by this definition;
7 examples include submitting downloaded term
8 papers or parts of term papers, paraphrasing
9 or copying information from the internet
10 without citing the source, and cutting and
11 pasting from various sources without proper
12 attribution."

13 Did I read that correctly?

14 A. Yes.

15 Q. Do you agree that statement?

16 A. Yes.

17 Q. I am going to take down this
18 exhibit 17. And do you see that I have shared
19 a new document on the screen?

20 A. Yes.

21 ATTORNEY HUDAK: So this is a
22 document produced by plaintiff in the
23 case with Bates numbers P 428 through
24 P 429. I'll mark this as exhibit 18.

25 ---

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2 (Exhibit 18, email, Bates P000428

3 through P 429 was marked for
4 identification)

5 ---

6 Q. Do you recognize this document?

7 A. Yes.

8 Q. What do you recognize this document
9 to be?

10 A. This is an email between myself and
11 Dr. Wilder about the CCLA confirmation.
12 Speaker confirmation.

13 Q. And so is it fair to say in this
14 email dated July 27, 2018 that you're
15 informing Dr. Wilder that you submitted a
16 proposal to the CCLA conference and it was
17 accepted?

18 A. Yes, that's what it says.

19 Q. Prior to submitting this proposal
20 to the CCLA conference organizers did you
21 inform Dr. Wilder that you were applying?

22 A. I recall an email communication
23 that included something about our kids and
24 Disney and a discussion about, I don't recall
25 if it was before I submitted the proposal,

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2 which would have been months before this, or
3 if it was subsequent email communication, in
4 her response to this. It was not produced, I
5 could not find the email and plaintiff did not
6 produce it.

7 Q. And why do you think that you could
8 not find the email?

9 A. So my campus has a very small
10 storage system available for email and I
11 frequently run out of storage and go through
12 fairly regularly and clean my in box of emails
13 that I don't think I have any need for. So a
14 back and forth about a conference in early
15 2018 like would probably not have been an
16 email I would have thought I needed to keep.

17 Q. So you believe that it was deleted?

18 A. Yes.

19 Q. And do you have an estimate of when
20 that email was deleted?

21 A. I don't recall if that email
22 exchange took place that summer, if it took
23 place before I submitted the proposal. I
24 don't recall. We had on a few occasions not
25 only traveled together but also our kids had

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2 spent some time together, and so I definitely
3 know there was some exchange about kids and
4 Disney at this particular conference.

5 Q. And in this email there seems to be
6 an attachment that's titled IP License and
7 Release. What do you believe that document,
8 that attachment to be?

9 A. I believe it was the document you
10 pulled up earlier titled Intellectual Property
11 License and Release.

12 Q. And at this email that we're
13 looking at now, exhibit 18, you did not attach
14 a copy of your CCLA PowerPoint, is that
15 correct?

16 A. No, the PowerPoint was not created
17 in July. The presentation was in February.

18 Q. And did you send Dr. Wilder a copy
19 of the CCLA PowerPoint before February 2019?

20 A. I did not.

21 Q. Did you --

22 A. I thought I sent her a copy of the
23 abstract. But I'm not sure about that.

24 Q. I believe you testified before that
25 the abstract goes out to everybody at the CCLA

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2 conference, is that correct?

3 A. No. I said that the abstract is on
4 a website that is available to anyone. Well,
5 it was until the website was pulled down.

6 Q. Okay. So the abstract was not
7 specifically sent to attendees, but you
8 believe it was available on a website, is that
9 correct?

10 A. Well, the conference program and
11 the speakers were available on the conference
12 website. I don't recall if they also gave out
13 paper programs to attendees or not.

14 Q. And attendees were sent access
15 information to download presentations that
16 were being made at the CCLA conference, is
17 that correct?

18 A. Again, I don't recall getting that
19 email. I never logged in or used that system.

20 Q. I'm going to take down exhibit 18.
21 And do you see that I've shared a new document
22 on the screen?

23 A. Yes.

24 ATTORNEY HUDAK: So this document
25 is Exhibit 1 to the complaint in this

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2 action. It's a three-page document, a
3 cover sheet with two pages of text. And
4 I am going to mark this as exhibit 19.

5 ---

6 (Exhibit 19, Exhibit 1 to the
7 complaint was marked for identification)

8 ---

9 Q. Do you recognize this document?

10 A. Can you scroll down?

11 Q. Sure.

12 A. Yes.

13 Q. And what do you recognize this
14 document to be?

15 A. Well, this document is, I believe
16 it was given to me in this form as what
17 Dr. Wilder had submitted for copyright. This
18 is like bits and pieces of the assessment
19 module all on two pages.

20 Q. And what do you mean by bits and
21 pieces of the assessment module?

22 A. So it looks different in
23 Blackboard, it's not set up -- well, as I
24 recall it's not set up like this. There would
25 be different, one folder with different links.

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2 Q. Does the text shown in this
3 document appear to be the full text of unit 7H
4 of the modules on Blackboard?

5 A. I don't know if I can say it's the
6 full text. I have not looked at that module
7 in Blackboard since September of 2019 or
8 probably before that. I haven't had access.

9 Q. Would you agree that the text shown
10 in this exhibit 19 was incorporated in almost
11 its entirety into the CCLA PowerPoint?

12 A. I don't know if those dates were.
13 I mean I would have to see a side by side
14 comparison. I don't think this is exactly
15 what was in the slides. The part about please
16 restate your 2 hour learning goals, yes.
17 Parts of it were in the slides.

18 Q. Would you agree that a majority of
19 the text shown here was included in the CCLA
20 PowerPoint?

21 ATTORNEY ZOLOT: Object to form.

22 A. Majority meaning over 50 percent of
23 this one page? I think the answer is yes.
24 But again some of the stuff is very different.
25 I don't recall all the dates and some of

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2 the -- some of those parentheticals being in
3 the slides, it wouldn't make sense.

4 Q. And just to be clear, this document
5 spans two pages. So we were looking at the
6 first page of text, which is page 2 of the
7 document. And now we're looking at the second
8 page of text, which is page 3 of the document.

9 A. Yes.

10 Q. Was the majority of the text shown
11 on this page included in the CCLA PowerPoint?

12 A. Yes.

13 Q. And why did you include so much
14 text from the -- from this unit 7H into the
15 CCLA PowerPoint?

16 ATTORNEY ZOLOT: Object to form.

17 A. So I included a lot of text because
18 I knew I wasn't going to spend a lot of time
19 on those slides. So slides that have a lot of
20 text are not read. Right? They're just kind
21 of there so that people can see the types of
22 things that are there, and then when I present
23 things like that I just move on.

24 So for example, I wasn't reading
25 the questions 1 through 4 with A, B, and C, D

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2 parts within them. I was just saying these
3 are the types of things we ask people to think
4 about. Next slide.

5 Q. I am going to take this exhibit 19
6 off the screen. I have put up a document that
7 was previously marked as exhibit 11, which has
8 Bates stamps D 9 through D 12.

9 Do you recall seeing this document
10 before?

11 A. Yes.

12 Q. And this was an email chain between
13 you and Crystal Rodriguez, is that correct?

14 A. Yes.

15 Q. And you were discussing the CCLA
16 PowerPoint, is that correct?

17 A. Primarily.

18 Q. So I'm looking at paragraph 4 on
19 the first page of this document, which has
20 Bates stamps D 9. And in the middle of the
21 fourth paragraph it says: "While I could have
22 used my own materials, which were developed
23 prior to becoming a PI of this project and
24 have been revised over the past 4 years, I
25 wanted to showcase a faculty participant's

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2 instructional materials."

3 Did I read that correctly?

4 A. Yes.

5 Q. And so are you referring to the use
6 of Crystal Rodriguez's materials in the CCLA
7 PowerPoint?

8 A. Are you referring to the last part
9 where it says "I wanted to showcase a faculty
10 participant's instructional materials"?

11 Q. I'm referring to the sentence as a
12 whole.

13 A. No, that's not about her materials.
14 That's about saying that I had plenty of
15 things that I've created over the years, but I
16 wanted to showcase NICE faculty, because
17 that's why I was there. And that none of
18 those materials were yet on the website.

19 Q. Just to back up a step. The
20 sentence is referring to the CCLA PowerPoints
21 included in Crystal Rodriguez's material as a
22 faculty participant's instructional materials,
23 is that correct?

24 A. The sentence is general. I'm
25 explaining my motivation for selecting her

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2 materials. That if you recall her previous
3 email had said something that, to the effect
4 that I'm trying to advance my own career by
5 taking her scholarship on as my own, and I'm
6 responding to that specific comment saying I
7 have plenty of my own curriculum, I don't
8 teach criminal justice. Like it doesn't make
9 any sense that anyone would think that that
10 was stuff that I created because that's not
11 even my subject area.

12 Q. Okay. So are you saying in this
13 sentence that you could have used your own
14 materials but you decided to use Crystal
15 Rodriguez's instead in the CCLA PowerPoint?

16 A. I'm not saying that. I'm saying I
17 wanted to showcase a faculty participant's
18 instructional materials. And clearly if I had
19 selected a different community college faculty
20 member with whom I had had a different
21 relationship, we wouldn't be looking at emails
22 like this right now.

23 Q. Is Crystal Rodriguez a faculty
24 participant in the NICE project?

25 A. Yes.

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2 Q. And when you're referring to
3 showcasing a faculty participant's
4 instructional materials are you referring to
5 the inclusion of Crystal Rodriguez's work in
6 the CCLA PowerPoint?

7 A. Could you repeat the question?

8 Q. When you're referring to showcasing
9 a faculty participant's instructional
10 materials, are you referring to the inclusion
11 of Crystal Rodriguez's work in the CCLA
12 PowerPoint?

13 A. No, I've said that twice. This
14 sentence is a general sentence about my
15 motivation; that I didn't need her
16 instructional materials, because I had my own.
17 Right? Like I'm not presenting as a single
18 person showing my instructional materials.
19 I'm presenting as the PI of the project. And
20 so it wouldn't make sense, as the PI of a
21 project, to go out and only show things that
22 I've created.

23 Q. Why is that?

24 A. Well, because I'm not the only
25 person in the project. So I was the

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2 facilitator through three cohorts of people,
3 the third being the extra cohort over years.
4 So to only show my own work, I feel like would
5 have undermined the project. And since none
6 of the work was on the website yet I selected
7 someone's work from the Blackboard shell.

8 Q. So is it fair to say that you
9 included another, a faculty participant's of
10 the NICE project's work in the CCLA PowerPoint
11 because you wanted to show that the project
12 did not involve just you?

13 A. No. As the title of the
14 presentation states, it's about a faculty
15 development program. So I think it would be
16 strange to talk about a program and then show
17 only things that I've created. Like I said,
18 there was a significant lag between what was
19 being produced and what was being added to the
20 website. And so I made a judgment call to use
21 a participant's work that had not yet been put
22 on the website.

23 Q. So just to back up a bit. The CCLA
24 PowerPoint includes the work of a faculty
25 participant of the NICE project, is that

1 S. Hoiland

2 correct?

3 A. Yes.

4 Q. And it also includes a subunit of
5 the modules from Blackboard, is that correct?

6 A. Yes. All of which we stated in our
7 proposal were to be made public as part of our
8 broader impact statement.

9 Q. And what was the purpose of
10 including the subunit in the CCLA PowerPoint?

11 A. The subunit on assessment fit with
12 the conference on assessment.

13 Q. Was it to promote the NICE project?

14 A. Yes.

15 Q. And how did it promote the NICE
16 project?

17 A. Well, for the 15 or so people in
18 the room it was a chance to talk about what we
19 had done up until that point. So part of our
20 dissemination plan, part of our project goals,
21 part of our, again, broader impacts were to
22 reach out to other community college faculty,
23 particularly at Hispanic-serving institutions,
24 and tell them about the NICE program. Which
25 is exactly what I was doing.

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2 Q. And what was the purpose of quoting
3 the entire subunit rather than describing the
4 project?

5 ATTORNEY ZOLOT: Objection;
6 mischaracterizes testimony.

7 A. Yeah, I mean I'll say it again
8 because I think it bears repeating, I used a
9 lot of text specifically because I didn't plan
10 to spend very much time on those slides. In
11 fact, initially I had sort of put all of them
12 on like two slides, and then I ended up
13 creating more slides, because it was so tiny
14 you couldn't even like see a word. But it was
15 explicitly because I did not plan to read the
16 slides, stay on the slides, get into the
17 nitty-gritty of the assessment unit but rather
18 provide an overview of how the faculty
19 development program approaches assessment.

20 Q. So couldn't you have used a smaller
21 portion of the text from the module to express
22 the same idea?

23 ATTORNEY ZOLOT: Objection; calls
24 for speculation.

25 A. Well, so my recollection, and I

1 S. Hoiland

2 searched for emails to back this and did not
3 have them, but Rachel Meister, when I
4 submitted it to her like that said it's too
5 small, please make the font bigger or change
6 the -- and I said but I'm not using it for
7 that. Like that's not what the presentation's
8 about. Just a quick visual to kind of give
9 people an idea of what it looks like.

10 And then she said well, can you
11 change the slides anyway?

12 And so I did. And it probably, I
13 don't know, doubled or tripled the number of
14 slides.

15 Q. So the purpose of using the entire
16 subunit was just to fill up slides?

17 ATTORNEY ZOLOT: Object to form.

18 A. No. I just -- I just had my
19 purpose for using them. Rachel Meister's
20 purpose apparently was that she didn't like
21 the way the slides looked.

22 Q. And you said that you didn't plan
23 on discussing the content of those slides in
24 detail?

25 A. So that had typically not been our

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2 practice before, as I mentioned, Dr. Wilder
3 and I co-presented several times. I don't
4 recall too many examples of where we worked
5 very collaboratively and talked about slide
6 show presentations before they happened. In
7 addition, she made several presentations on
8 her own without me and we definitely did not
9 discuss her proposals or presentations at
10 those conferences.

11 ATTORNEY HUDAK: So we've been
12 going I think for about another hour.
13

13 Let's take a short break.

14 ATTORNEY ZOLOT: Sure.

15 THE COURT REPORTER: We're off the
16 record.

17 -----

18 (Recess from 4:40 to 4:50.)

19 --

20 ATTORNEY HUDAK: Back on the record
21 after a short break.

Q. I would like to share my screen.

23 Do you see that I have shared a document on
24 the screen?

25 A Yes

1 S. Hoiland

2 ATTORNEY HUDAQ: This is the Answer
3 filed in this litigation, filed under
4 ECF numbers 10 and 10-1. I'll mark it
5 as exhibit 20.

6 -----

7 (Exhibit 20, Answer to Complaint
8 was marked for identification)

9 -----

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. What do you recognize it to be?

13 A. This is the Answer that I submitted
14 to Dr. Wilder's complaint.

15 Q. I have scrolled to the last page of
16 the document which is page 6. Do you see page
17 6?

18 A. Yes.

19 Q. And listed as defendant's first
20 defense is Ownership of a Valid Copyright. It
21 states "Upon information and belief, plaintiff
22 cannot establish that she created or is
23 otherwise the owner of the portions of the
24 NICE materials at issue, or that such
25 materials are sufficiently original to warrant

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2 copyright protection."

3 Did I read that correctly?

4 A. Yes.

5 Q. On what basis do you assert that
6 plaintiff cannot establish that she created
7 the portions of the NICE materials at issue?

8 A. So in looking at 7H and the
9 material that was copyrighted, I believe in
10 2021, many of the things in it are just very
11 general to the discipline. So questions like
12 is this valid are not significantly unique.

13 In addition, like the three
14 components in which participants were to
15 create assessment materials were created by an
16 educator named Susan Suski in a book, and so I
17 also was not aware of when or how the NICHE
18 materials were created. I did not have any
19 personal knowledge as to whether they were
20 created by the NICHE team or by Dr. Wilder and
21 colleagues at Lehman college prior to NICHE.

22 Q. Any other reasons?

23 A. No. I mean as you can see, I'm
24 representing myself at this point, and so I'm
25 not a copyright attorney, but when I looked at

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2 the copyright materials they did not seem like
3 something that warranted copyright. In
4 education assessment those are very common
5 ways to approach assessment. My campus uses a
6 similar framework.

7 Q. And you are represented by counsel
8 now, correct?

9 A. Yes.

10 Q. So do you have any other reasons
11 now for asserting that plaintiff cannot
12 establish that she created the portions of the
13 NICE materials at issue?

14 A. I mean I will leave the legal
15 understanding of ownership of a valid
16 copyright to my attorneys.

17 Q. I am asking for your factual basis.
18 So I believe that the two bases that you just
19 gave were that you don't believe that the text
20 is sufficiently unique, and that you believe
21 that perhaps work created by Susan Suski has
22 an impact on whether plaintiff created the
23 portions of the NICE materials at issue.

24 Is that an accurate representation
25 of your testimony?

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2 A. Yes.

3 Q. So are there other, any other
4 reasons other than those two?

5 A. I don't think so.

6 Q. Why do you believe that the text is
7 not sufficiently unique to warrant copyright
8 protection?

9 A. Can you pull up the 7H document
10 again?

11 Q. Sure.

12 A. I can walk you through a few
13 points.

14 Q. So I am closing exhibit 20, and
15 I'll pull up exhibit 19.

16 So what I have put up on the screen
17 has been previously marked as exhibit 19,
18 which is exhibit 1 to the complaint. I'm
19 scrolling to the second page but let me know
20 if you need me to scroll.

21 A. So let's go to the next page --
22 well, okay. We can stay here for a second.
23 So the paragraph that begins "please restate
24 your revised QR learning goals."

25 So those three goals and three

1 S. Hoiland
2 questions come from Suski. I don't know if
3 they're listed on here. The font is really
4 small on the screen so I am going to look at
5 this one.

6 The dates and instructions for an
7 assignment are also not in any way unique to
8 this particular project or this copyrighted
9 material and that's basically the first three
10 paragraphs.

11 Instructions for how to create a
12 blog, that's definitely not anything unique to
13 this.

14 Providing peer feedback is
15 something very common across disciplines in
16 higher education.

17 And as for the instrument itself,
18 which would be the part that would be more
19 unique, again, you know, I mentioned that a
20 lot of the comments are just things that are
21 very standard knowledge or generalizable
22 knowledge. For example, an assessment, your
23 assessment -- "you assessment" -- okay.
24 Sorry. Let me read it as it is. "You
25 assessment instrument should be designed to

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2 measure whether or not or the extent to which
3 your QR lesson assignment succeeded in
4 teaching students the three learning goals you
5 put forward."

6 So yes, assessment should show
7 whether there's learning. That's the point.

8 The assessment should be designed
9 to give feedback to you as an instructor,
10 exclamation point.

11 Again, very kind of basic things
12 you could find in many courses.

13 Please indicate when and how you --
14 okay, more instructions.

15 If you go to the next slide.

16 Q. I am scrolling to page 3 of the
17 document.

18 A. So those three areas listed in the
19 third paragraph are Suski's. So knowledge and
20 conceptual understanding, thinking, and other
21 skills, attitudes, values, dispositions and
22 habits of mind all come directly from Suski.

23 And in fact, Suski quotes a different author
24 and puts "habits of mind" in quotations.

25 Because that is specific in terms of and

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2 intellectual contribution to someone else.

3 Moving through the guidelines. So
4 again things like are they clear and
5 straightforward.

6 What are the strengths and
7 weaknesses.

8 Is the assessment instrument valid.

9 Is the instrument sound. I mean all of those
10 kinds of things are extremely ordinary in a
11 variety of contexts, particularly assessment.

12 Q. And so you believe that the ideas
13 expressed in this unit are known and therefore
14 the text is not entitled to copyright
15 protection? Is that a fair assessment of your
16 testimony?

17 A. Well, again I'm an sociologist.
18 Even after all this I'm not an expert in
19 copyright or, you know, I don't work at the
20 copyright office to decide what is and what
21 isn't. But as far as this being an original
22 and unique contribution, it's not. It's a
23 compilation of things that are both commonly
24 known and then things that are unique
25 contributions, such as Suski's framework or

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2 the habits of mind that are then not
3 attributed to anyone else.

4 Q. Why did you decide to use this text
5 in your CCLA PowerPoint that was just ordinary
6 ideas?

7 A. Because --

8 ATTORNEY ZOLOT: Object to form.

9 A. Because I was there to speak about
10 the NICE faculty development program and I was
11 there to speak about assessment, and this is
12 what we were using.

13 Q. And you agree that you copied
14 verbatim the text shown in this unit 7H?

15 A. Again, there are some differences.
16 I don't know if some of the typos and dates
17 and other things are included. But large
18 portions of these pages appear in the slides
19 that I used at the CCLA.

20 Q. So I think on page -- the first
21 page of text of this document, which is page 2
22 of the document, you pointed out a typo, where
23 it says "you assessment instrument," and that
24 typo appears in the CCLA PowerPoint. So the
25 text itself was copied into the CCLA

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2 PowerPoint, correct?

3 ATTORNEY ZOLOT: Object to form.

4 A. I don't know if they were
5 screenshots or if it was copy/paste. I don't
6 recall exactly how the text moved from the
7 Blackboard shell to my slides.

8 Q. But you would agree that saying
9 "you assessment instrument" indicates a typo?

10 A. Typo or grammatical error.

11 Q. And you discussed work from Susan
12 Suski, is that correct?

13 A. Yes.

14 Q. And did you produce any information
15 supporting your arguments about Susan Suski's
16 work in your document production?

17 A. I don't recall.

18 ATTORNEY ZOLOT: Object to form.

19 Q. And your reference to Susan Suski
20 concerns ideas about assessment that she's
21 discussed in the past?

22 A. No. My -- I don't know if I would
23 call it a concern. I mean what I'm saying is
24 that the very specific three-prong criteria
25 for assessment in NICE comes from Susan Suski.

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2 Q. Is there anything else that you
3 assert comes from Susan Suski that's present
4 in unit 7H?

5 A. I'm not sure, as part of the
6 request for documents I asked for the
7 materials that Dr. Wilder used to create the
8 materials. So I can't -- I can't say that I
9 know Susan Suski's work so well to know that
10 there might be something else in here. But
11 that stands out to me.

12 Q. As of right now there's no other
13 basis for your arguments concerning Susan
14 Suski other than what you just described about
15 three prongs?

16 ATTORNEY ZOLOT: Object to form.

17 A. Well, other than the entire
18 framework for the assessment, which are those
19 three prongs. I also produced a website that
20 had very similar questions to the questions
21 that were on the next page of this document,
22 that another institution had created and made
23 public.

24 Q. Was that website related to Susan
25 Suski?

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2 A. No.

3 Q. So is that a third reason that you
4 contend that the text here -- sorry. I'm just
5 trying to find a quote. That plaintiff cannot
6 establish that she created the portions of the
7 NICE materials at issue?

8 A. I'm not sure what you're numbering
9 is, 1, 2, 3, so I don't know if I can say yes
10 or no to that. But I have expressed a few
11 different reasons why I questioned whether or
12 not this unit 7H has a valid copyright, or is
13 copyrighted. Or copyrightable.

14 Q. So I am trying to understand
15 defendant's actual position for its first
16 affirmative defense. And before you gave two
17 reasons. One about the text -- text
18 uniqueness, and the second, you referenced
19 Susan Suski. So I'm asking if the website
20 that you referenced in your document
21 production relates to those two reasons?

22 A. Yes.

23 Q. So was the website created by Susan
24 Suski?

25 A. You can pull up the document if you

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2 want. To my recollection the institution that
3 had that as their assessment framework, so I'm
4 not talking about the three prongs that Suski
5 contributed. I'm talking about the list of
6 questions. If you scroll to the next page.
7 So the guidelines. That many of those are
8 found in --

9 Q. These are the guidelines that you
10 are referring to?

11 A. Yeah. That many of those are found
12 in other places.

13 Q. The guidelines listed starting
14 about halfway down the page and then numbered
15 1, 2, 3 and then A, B, C, D and 4, are those
16 the guidelines you're referring to?

17 A. Correct.

18 Q. And do you recall the institution
19 that you are referring to as having a website
20 that was -- (audio distortion) -- production?

21 A. You froze, Sandra.

22 Q. Sure. You referenced -- oh, I am
23 sorry. Let me start again.

24 So you referenced that there's a
25 website in your document production. Whose

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2 website is included in your document
3 production?

4 A. I don't recall. You would have to
5 pull it up. I submitted my documents in June
6 when they were due. So this is months ago. I
7 don't recall the institution.

8 Q. Was the text included on the
9 website authored by Susan Suski or are you
10 referring to this website as a separate piece
11 of evidence in support of your first
12 affirmative defense?

13 ATTORNEY ZOLOT: Objection; asked
14 and answered.

15 A. Yeah, a couple of times I think --
16 as I indicated I believe that the institution
17 is completely separate from Susan Suski. It
18 did not include Suski's framework. The
19 website included several of the guidelines.
20 Suski's framework are the three questions
21 above. Or the three areas.

22 Q. So other than --

23 A. So this page, I'm saying, can
24 largely be found in other places.

25 Q. So other than the material created

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2 by Susan Suski and this website that you've
3 referenced, do you have any other factual
4 basis for defendant's first affirmative
5 defense?

6 A. No.

7 Q. I'll take down this exhibit. You
8 said before that you're not an expert in
9 copyright law. But what's your general
10 understanding of what a copyright is?

11 A. My general understanding of
12 copyright is that when someone creates
13 something that is unique, and I guess in some
14 ways sufficiently different than what's
15 already out there, that then it's a
16 copyrightable work. So I guess generally I
17 would think about this as things that are then
18 produced. But that's about the extent of my
19 knowledge.

20 Q. So if somebody authors text would
21 that be copyrightable?

22 ATTORNEY ZOLOT: Objection; calls
23 for a legal conclusion.

24 A. Well, if my son is writing
25 something on a piece of paper, I don't think

1 S. Hoiland

2 that's copyrightable. So no. I mean it's not
3 just text on a page.

4 Q. When does it become copyrightable?

5 ATTORNEY ZOLOT: Objection; calls
6 for a legal conclusion.

7 A. So again I said I think there has
8 to be some kind of sufficient uniqueness or if
9 it's in academia some kind of contribution
10 that is not already there.

11 Q. What's your understanding of
12 intellectual property?

13 A. So my understanding of intellectual
14 property I guess is somewhat similar. It's an
15 intellectual contribution that one makes that
16 one can consider sufficiently unique to be
17 theirs. However, when, you know, one is
18 involved in larger projects or, for example, I
19 created a survey for my college that was
20 solely mine, and I gave it to the college and
21 gave it to them to use to do what they wanted
22 to do with it. So I mean there are many times
23 we create things in academia that are ours,
24 and that are uniquely ours and we give them,
25 or allow them to be used for the betterment of

1 S. Hoiland

2 students or other faculty or just general
3 knowledge.

4 Q. So when do you have to ask somebody
5 for permission to use work that they've
6 created?

7 ATTORNEY ZOLOT: Objection; vague.

8 A. Well, I would say -- so I'm
9 thinking about using an art book that I
10 purchased with photos of an artist's work in
11 one of my classes. And my students aren't
12 present so they can't actually go and see the
13 art itself. And so what I want to do is make
14 a few copies of the pages, because I can't
15 bring a book into the institution.

16 And so in this case I would email
17 the artist and ask if I can use his work in
18 that particular way, in an educational
19 context, to show his art to students.

20 Q. If you're friendly with somebody do
21 you still need to ask for their permission to
22 use their materials?

23 ATTORNEY ZOLOT: Object to form.

24 A. I think "friendly" is vague. I
25 mean I think that, you know, as I mentioned

1 S. Hoiland
2 before, there are many people where I think we
3 see it as kind of a compliment of sorts,
4 right? If one of my friends says oh, I was
5 talking about your work to so and so. I mean
6 generally I think that's something that people
7 are pleased about. You're spreading the kind
8 of intellectual contributions that people are
9 making. And that can occur in many different
10 contexts.

11 Q. And so in that situation that you
12 just described, the person whose work you're
13 referencing is pleased because you're giving
14 them credit for their work and praising it, is
15 that an accurate assessment?

16 A. Yes.

17 Q. And so if you didn't give that
18 person credit but you just talked about their
19 work, then they might not be so pleased, is
20 that correct?

21 ATTORNEY ZOLOT: Objection.

22 A. I think you -- sorry.

23 ATTORNEY ZOLOT: Object to form.

24 A. I think you're using "credit" in a
25 way that I'm not. So if I were to talk about,

1 S. Hoiland

2 you know, my friend's book on modernist
3 interiors, of course I would say her name.

4 Right? That would be how I would give credit,
5 would be a verbal attribution.

6 Q. And if you created a PowerPoint
7 presentation where you copied and pasted text
8 from this friend, would you include a written
9 citation to the work?

10 ATTORNEY ZOLOT: Objection; lacks
11 foundation. Calls for speculation.

12 Hypothetical.

13 A. So if the friend and I were
14 collaborators on a multi-year project, no. It
15 would just be a given. Like this is --
16 everyone knows we're doing this together.

17 Q. And so you believe that you never
18 need to credit, in written form, a
19 collaborator's work on a multi-year project?

20 ATTORNEY ZOLOT: Objection;
21 mischaracterizes testimony.

22 A. That's not what I said at all.

23 Q. Please clarify?

24 A. So your original question was
25 something different. It was if you're

1 S. Hoiland

2 friendly with someone, do you think that you
3 don't need to cite their work. And what I'm
4 saying is that if you're working with someone
5 on a long-term or even, you know, a multi-year
6 project, I think the assumption is that you
7 will talk about the other person and give
8 credit where credit is due. Which is what I
9 did at CCLA.

10 Now I mean on the other hand, you
11 know -- it's okay. That's it.

12 Q. So what would be an alternative
13 situation? You were about to give an
14 alternative situation.

15 A. Well, an alternative situation was
16 our ASA presentation, where Dr. Wilder did not
17 introduce me as the PI of the NICE project,
18 but as the person who's going to introduce the
19 students. So those are very large public
20 forum, where my introduction should have been
21 as the PI of the project, and was reduced to
22 just some person who was introducing students.
23 So that's an example of where people are
24 presenting together and there's a certain
25 decorum that's expected, that someone's role

1 S. Hoiland

2 be expected.

3 Q. It depends on the size of the
4 forum, whether you need to include written
5 credit for a colleague's work?

6 ATTORNEY ZOLOT: Objection;

7 mischaracterizes of the testimony.

8 A. Yeah, that wasn't what I said at
9 all.

10 Q. Right. In the example that you
11 just gave, was the colleague presenting your
12 work as her own?

13 A. The colleague was presenting on a
14 project that I had been working on with her
15 for three years.

16 Q. And was your work presented as her
17 own?

18 A. Well, if you consider my work being
19 making sure people actually completed the
20 program, then yes. There would be no program
21 without faculty participants.

22 Q. And does the size of the forum
23 matter when deciding whether to include a
24 written credit when referencing another's
25 work?

1 S. Hoiland

2 A. Well, we were discussing verbal
3 credit, or even a verbal nod to someone else
4 and who they are. I think generally speaking,
5 you know, if the audience is going to be quite
6 large, it might be more likely that someone
7 might not be as in tune to what's being said.
8 So in that case we both had PowerPoint
9 presentations. It was a little bit more of a
10 formal presentation, given the setting and the
11 audience.

12 Q. And so what size of an audience
13 requires giving written credit in a PowerPoint
14 slide when referencing another's work?

15 ATTORNEY ZOLOT: Objection; vague.

16 A. I mean I don't know as if I have a
17 specific number that I can relay to you. You
18 know, what I'm saying in the example that I
19 gave was there's an example of blatant not
20 giving credit to a very large audience. And
21 so I'm not exactly sure what you're asking.
22 If I'm presenting to a football stadium am I
23 going to have citations in my PowerPoint? I
24 don't know. I've never done that.

25 Q. So I believe your testimony was

1 S. Hoiland

2 that the size of the audience matters when
3 deciding whether to give written credit. Is
4 that accurate?

5 A. I think there are all kinds of
6 considerations. As I mentioned, the types of
7 presentations vary greatly. So I feel like
8 you're asking a technical question, trying to
9 pin me to saying X amount of people need to be
10 in a room to do XY and Z, and I don't feel
11 comfortable saying that.

12 Q. I'm just trying to understand the
13 considerations that you used. So what
14 considerations? Is the size of the audience a
15 factor?

16 A. I don't think I've ever known the
17 size of the audience prior to giving a
18 presentation. I mean with the ASA
19 presentation I just mentioned, I think
20 Dr. Wilder and I both knew that it would be
21 larger, because of the place that I submitted
22 the proposal. So when you submit a proposal
23 to different tracks, that can give you an idea
24 as far as how many people might show up.

25 But again it can vary widely from

1 S. Hoiland

2 year to year, from conference to conference.

3 So in a sort of small session like the one I

4 did in CCLA, I assume it would be quite small,

5 more informal, more of a talk, less of a

6 presentation. It was a tiny room. That was

7 not the case with the ASA presentation, which

8 had double screens, many, many roundtables, in

9 a ballroom that could be filled with people.

10 Q. So you've been referring to this

11 ASA presentation and I understand you

12 testified before that you and Dr. Wilder gave

13 separate presentations at that event, is that

14 correct?

15 A. Essentially, yes. So we were in

16 the same slot. I submitted a proposal for us

17 to present together, and because at that time

18 there were many issues coming up between us

19 over email, I had said that I will back out of

20 the presentation altogether and she can have

21 it by herself. And she indicated that, I

22 don't know, we would have to look at the

23 emails, but that I don't think she was

24 prepared to do it by herself, and so we

25 decided to just split the time.

1 S. Hoiland

2 Q. And did you give Dr. Wilder credit
3 for any contribution to your presentation at
4 this ASA conference?

5 A. I recall acknowledging her as
6 another person in the room with whom I was a
7 PI on a project with, yes.

8 Q. Any other --

9 (audio/video interruption.)

10 THE COURT REPORTER: Could you
11 repeat your question, counsel?

12 ATTORNEY ZOLOT: You froze.

13 ATTORNEY HUDAK: I might have
14 frozen for a second and missed the
15 answer.

16 ATTORNEY ZOLOT: I think she
17 answered the question. I think you were
18 frozen and we didn't hear a question.

19 ATTORNEY HUDAK: Okay. Court
20 reporter, can you please read back the
21 last question and answer you have?

22 (Requested portion of the record
23 read back.)

24 ATTORNEY HUDAK: Okay. And my
25 question was:

1 S. Hoiland

2 Q. Did you give any other
3 acknowledgment or credits to Dr. Wilder at
4 that ASA presentation?

5 A. I don't recall. I mean one of her
6 students was there with my students, so I'm
7 guessing her name came up again when I
8 introduced the student as being someone who
9 had taken Dr. Wilder's class.

10 Q. You're just speculating, though, is
11 that correct?

12 A. Well, I mean I remember introducing
13 the students pretty clearly, and so it would
14 make sense to say why they were there. And
15 I'm fairly certain I can say that I introduced
16 Dr. Wilder's student as her name, and that she
17 was a student of Dr. Wilder's.

18 Q. And do you recall this or you're
19 assuming that you would have said that?

20 A. Three years later, I'm fairly
21 certain that's what I said.

22 Q. Based on your assumption of
23 introducing the student?

24 A. No. Based on memory.

25 ATTORNEY ZOLOT: Objection.

1 S. Hoiland

2 Q. Okay. So you recall mentioning
3 Dr. Wilder upon introducing the student?

4 A. That's what I said.

5 Q. Any other mentions or credits
6 given?

7 A. I don't believe so.

8 Q. So we were talking before about
9 when you would ask a person for permission to
10 use their materials and we were talking about
11 the factors that you would consider when you
12 ask for permission.

13 Is one of those factors related to
14 how much of the other person's work that you
15 use?

16 ATTORNEY ZOLOT: Objection; lacks
17 foundation.

18 A. I think the factor in this case,
19 because I assume that's what we're talking
20 about -- are you asking about Dr. Wilder's
21 permission? Are we back to generalities?

22 Q. I'm asking about generalities.
23 What considerations you use when determining
24 whether to ask for permission in using
25 somebody else's work in a written material?

1 S. Hoiland

2 A. Well, so I'll go back, if we're
3 going to do generalities, I'll make it more
4 specific with this example of asking an
5 artist. So an artist creates products that
6 have commercial value. The book is sold for
7 commercial value. Since my particular group
8 of students cannot see the art nor purchase
9 the book, I would have to reproduce pages of
10 the book in order for my students to have
11 access to it.

12 So in that case, right, I've been
13 thinking about this, planning it and like okay
14 I need to email the artist and ask if he's
15 okay with me using his work in this way.

16 Again the size of the class is
17 small, right? And there are certain
18 limitations in terms of people not being able
19 to access the materials, and the materials
20 being commercial.

21 Q. So one of your considerations is
22 using pages from a book, using multiple pages
23 of a book warrants asking permission?

24 ATTORNEY ZOLOT: Objection;
25 mischaracterizes the testimony.

1 S. Hoiland

2 A. So I don't think there's one factor
3 to consider. I think there are many. Another
4 being I don't know the artist. I don't
5 have ...

6 Q. Okay. I want to understand what
7 these factors are. You keep just saying that
8 there are many factors but we haven't
9 discussed any of these factors in particular.
10 So is the size or the amount of the material
11 used a factor when deciding whether permission
12 needs to be asked?

13 A. Yes.

14 Q. And is there a certain percentage
15 of the material being used that would warrant
16 asking for permission?

17 A. I don't know if I can distill it to
18 a percentage.

19 Q. If you use more than 50 percent of
20 a given material, would that warrant asking
21 for permission?

22 ATTORNEY ZOLOT: Objection; calls
23 for speculation.

24 A. Well, so this particular book is
25 hundreds of pages. I would plan to use some

1 S. Hoiland

2 of those pages. But it's not the number of
3 pages per se. Right? Each piece of art is
4 uniquely created by this artist.

5 Q. So even just one page would warrant
6 asking for permission?

7 ATTORNEY ZOLOT: Objection;
8 mischaracterizes testimony.

9 A. I don't know. Again at this point
10 like I would probably ask someone before I
11 were to do something like that. My first
12 instinct in that case was to reach out to the
13 artist.

14 Q. Are there any other factors that
15 you use when considering whether to ask for
16 permission to use another's work?

17 A. Well, I said in this case because
18 the work is -- has commercial value, great
19 commercial value. It's in the Guggenheim.
20 That's a consideration.

21 I think I'm a little more -- I
22 think copyright is protected a little more
23 tightly in certain areas, maybe art and music
24 and things that are completely new in an
25 individual's contribution.

1 S. Hoiland

2 Again, as I said, in academia a lot
3 of things are borrowed and reused and recycled
4 and it's a different context. Artists don't
5 do that in the same way.

6 Q. In academia is there a habit of
7 giving citations when other sources are
8 referenced?

9 ATTORNEY ZOLOT: Objection; vague.

10 A. I mean it depends what the context
11 is. If I'm speaking to you or if I'm speaking
12 to a class and I might say this thinker came
13 up with this idea, I might not have a full
14 citation behind it but I'm going to tell them.

15 ATTORNEY ZOLOT: Sandra, is now a
16 good time for a break?

17 ATTORNEY HUDA: We can take a
18 break. Let's go off the record.

19 THE COURT REPORTER: Thank you.

20 ---

21 (Recess from 5:35 to 5:48.)

22 ---

23 ATTORNEY HUDA: Back on the record
24 after a short break.

25 Q. So Dr. Hoiland, I think you

1 S. Hoiland
2 testified before that you were promoted at
3 Hostos from an assistant professor to an
4 associate professor in the year 2020, but I'm
5 not sure if we got a month for that before.
6 Do you recall around what month that promotion
7 occurred?

8 A. I believe it was finalized in
9 November of 2020. And then back dated to
10 September 1 of 2020.

11 Q. And do you have documents
12 concerning that promotion, such as what time
13 period it occurred in?

14 A. I believe I received a letter
15 stating that my promotion was effective
16 September 1.

17 Q. And did you produce that document
18 in this litigation?

19 A. I don't believe so.

20 ATTORNEY HUDAK: We would request a
21 copy of that letter.

22 ATTORNEY ZOLOT: You froze.

23 ATTORNEY HUDAK: Sorry, I didn't
24 hear a response?

25 ATTORNEY ZOLOT: You froze.

1 S. Hoiland

2 ATTORNEY HUDAK: Oh, I asked for --

3 ATTORNEY ZOLOT: I think you froze
4 again as you started to say.

5 ATTORNEY HUDAK: All right. I'm
6 unfrozen now?

7 ATTORNEY ZOLOT: Yes.

8 ATTORNEY HUDAK: Okay. We were
9 talking about a letter that concerns the
10 promotion of Dr. Hoiland from assistant
11 professor to associate professor and the
12 timing of that and I was just requesting
13 a copy of the letter be produced.

14 Please let me know if I freeze again
15 because I can't tell.

16 ATTORNEY ZOLOT: No, you didn't.

17 ATTORNEY HUDAK: Great. Thank you.

18 Q. So the CCLA conference occurred in
19 around February 2019, is that correct?

20 A. Correct.

21 Q. And since that time have you
22 applied for any other grants?

23 A. Yes.

24 Q. What grants have you applied for?

25 A. So I had a PSC-CUNY grant in 2020,

1 S. Hoiland

2 I believe. I would have to check the dates on
3 that, though, because the application probably
4 went in the December before CCLA. I'm not
5 sure, I would have to check.

6 I currently have an NSF grant that
7 I applied for in May of 2020.

8 Q. Did you apply for any other grants
9 since February 2019?

10 A. Yes. I applied for a National
11 Institute of Health grant in I believe we
12 submitted it in November -- October or
13 November of 2019.

14 Q. Any other grants?

15 A. I don't believe so.

16 Q. I believe that you listed out three
17 grants just now. PSC CUNY grant, an NSF grant
18 and an NIH grant. Is that correct?

19 A. Correct.

20 Q. So each of the applications for
21 those three grants, did you list your
22 presentation at the CCLA conference in the
23 application materials?

24 A. Yes.

25 Q. Did you receive each of those three

1 S. Hoiland

2 grants that you just listed?

3 A. No.

4 Q. Which ones did you not receive?

5 A. The NIH was a revise and resubmit.

6 And I did not revise and resubmit. The
7 PSC-CUNY, which again I would have to check
8 the dates, I have four or five of them, and
9 the last one I believe was predominantly in
10 20 -- I can't remember whether it was 2019,
11 2020. I can't remember the dates. But yes,
12 the CCLA would have been listed as one of I
13 think 35 plus presentations that I've given
14 during my tenure at CUNY.

15 Q. And you said the PSC-CUNY grant you
16 did not receive?

17 A. No, I did receive the PSC-CUNY and
18 the NSF proposal was funded.

19 Q. Have you applied for any
20 professional honors since February 2019?

21 A. Yes, I submitted a book chapter for
22 the Barbara R. Walters board through the
23 Eastern Sociological Society and I received
24 that award in February of 2020.

25 Q. And did you list your presentation

1 S. Hoiland

2 at the CCLA conference in your application
3 materials for the Barbara R. Walters honor
4 that you just mentioned?

5 A. Yes. So again I think my CV is 15
6 pages or so, it's two lines in that CV.

7 Q. And other than the Barbara R.
8 Walters honor have you applied for any other
9 professional honors since February 2019?

10 A. So the Mellon/ACLS fellowship.

11 That was not -- that was before CCLA. I'm
12 sorry. So I received that in 2019 so the
13 application would have gone in in 2018.

14 Q. Have you applied for any other
15 professional honors other than the -- the
16 Barbara R. Walters and Mellon/ACLS fellowship?

17 Am I unfrozen now?

18 A. Yes. So there was an application,
19 and I don't recall when it was submitted for
20 the CUNY academy junior faculty. There's two
21 separate awards. I think one is the Feliks
22 Gross and the other is the Henry Wasser. My
23 provost nominated me and I did not receive
24 that. Again, I'm not sure whether that was
25 submitted before -- well, it had to have

1 S. Hoiland

2 been -- I don't know. It was somewhere in
3 that time period.

4 Q. Are there any other professional
5 honors that have not been listed so far?

6 A. I mean if you want to include --
7 no. There's professional service, which is a
8 separate kind of category.

9 Q. And what's professional service?

10 A. Be nominated and elected to
11 different positions in professional societies.
12 The work. Volunteer work.

13 Q. Do you apply for those positions?

14 A. No.

15 Q. How do you get appointed to the
16 positions?

17 A. Nomination.

18 Q. Have you applied for any other
19 professional opportunities that haven't been
20 mentioned so far since February 2019?

21 A. Not that I recall.

22 Q. I am going to share my screen. Do
23 you see that I have shared a document on the
24 screen?

25 A. Yes.

1 S. Hoiland

2 Q. This is a document produced by
3 defendant in this case with Bates numbers D
4 486 through D 500. I'll mark this as exhibit
5 21.

6 ---

7 (Exhibit 21, project description,
8 Bates D0486 through 500 was marked for
9 identification)

10 ---

11 Q. Do you recognize this document?

12 A. Yes.

13 Q. And what do you recognize this
14 document to be?

15 A. This is the proposal for the NSF
16 funded project, Hostos Oasis For Parents'
17 Education.

18 Q. So this is the application for the
19 NSF grant that you testified you applied for
20 in around May 2020 and received?

21 A. This is not the full application.
22 This is part of it. This is the project
23 description.

24 Q. What other parts were involved in
25 the application?

1 S. Hoiland

2 A. So it's similar to the application
3 that was submitted with discovery. They can
4 be 135-plus pages. There's a lot of
5 documentation. It includes a cover page, a
6 facilities page, CVs from each of the PI and
7 co-PIs. It includes budgets and budget
8 justifications. This is a five-year project,
9 so it was a five-year budget, a cumulative
10 budget. Budget justification. Conflict of
11 interest forms for each of the co-PIs and
12 myself. Some other documentation about who
13 people have collaborated with.

14 Q. What do you mean communications
15 about who people have collaborated with?

16 A. So there's a standard form that
17 asks, I would have to look at it, but it's who
18 you have worked with in the past X amount of
19 years.

20 Q. And do you see that this is a
21 15-page document and there are redactions on
22 every page of the document? What information
23 is redacted in this document?

24 ATTORNEY ZOLOT: Objection.

25 ATTORNEY HUDAK: Let me rephrase.

1 S. Hoiland

2 Q. Please do not reveal any
3 attorney-client communications, however, since
4 you represented that this is a document that
5 was submitted to a third party I did not
6 believe there to be any attorney-client
7 privileged information. So let's start with
8 do the redactions relate to any
9 attorney-client privileged information?

10 A. No.

11 Q. All right. What is the information
12 that's redacted in this document?

13 A. The information is related to the
14 project that was funded.

15 Q. And why was it redacted?

16 ATTORNEY ZOLOT: Objection.

17 A. So this project just started, it's
18 in its first year, and my understanding, and
19 what I've been advised -- and including what
20 Dr. Wilder had told me when she had shared the
21 NICE proposal with me and other proposals --
22 is that you don't share them with other
23 people. Right? So there's no purpose of
24 having that text available in this litigation,
25 it's completely unrelated.

1 S. Hoiland

2 Q. So the text was redacted based on a
3 determination that the text was not relevant
4 to the issues in this litigation?

5 ATTORNEY ZOLOT: Objection. I am
6 going to counsel my client not to answer
7 about decisions that lawyers made about
8 relevant redactions.

9 Q. And Dr. Hoiland, are you going to
10 take your counsel's advice?

11 A. Yes.

12 ATTORNEY HUDAK: So we would
13 request an unredacted version of this
14 document.

15 Q. I'll take that exhibit down. That
16 was exhibit 21.

17 When did you first make contact
18 with any lawyer about the issues in this
19 litigation?

20 ATTORNEY ZOLOT: Objection. I'm
21 just going to counsel my client not to
22 reveal any attorney-client privileged
23 communications.

24 A. So I believe it was shortly after
25 receiving the demand letter from Janet Linn.

1 S. Hoiland

2 Q. And do you remember what,
3 approximately what time frame that was?

4 A. I'm fairly certain the demand
5 letter came on June 10, 20 -- 2021.

6 Q. And were the lawyers you contacted
7 your current lawyers at Davis & Gilbert?

8 A. So I was referred to a different
9 attorney at this firm.

10 Q. But you did not make contact with
11 any other lawyers at other law firms, is that
12 correct?

13 A. No.

14 Q. And in this litigation you were
15 representing yourself pro se from the start of
16 the case until about mid-October, is that
17 correct?

18 A. Yes.

19 Q. And is it correct to say that
20 during the time you were representing yourself
21 pro se you received assistance from attorneys
22 regarding this litigation?

23 A. I received some assistance, yes.

24 Q. And in all instances when you
25 received assistance from counsel in this

1 S. Hoiland

2 litigation when you were representing yourself
3 pro se, was that legal assistance provided by
4 your current attorneys, Davis & Gilbert?

5 A. Yes.

6 Q. And is it correct that in some of
7 the documents that were filed and exchanged in
8 this case you stated on the paper that the
9 document was prepared with the assistance of
10 counsel admitted in the Southern District of
11 New York?

12 A. Yes.

13 Q. And is it correct to say that other
14 documents that were filed or submitted or
15 exchanged with counsel in this case while you
16 were representing yourself pro se did not
17 include that statement?

18 A. I'm not sure what you're referring
19 to.

20 Q. Sure. Let me rephrase. So in
21 every instance when you received assistance
22 from an attorney in preparing documents to be
23 either filed with the court or exchanged with
24 counsel for plaintiff, did you identify on the
25 document that you received assistance from the

1 S. Hoiland

2 attorneys in preparing the document?

3 A. I'm not sure.

4 Q. Did you receive assistance from
5 counsel regarding your responses to
6 plaintiff's first set of document requests?

7 A. I want to say no. I recall the
8 timing of that and I -- I don't think I had
9 assistance with that. Or if it was, it was
10 very minimal.

11 Q. Did you receive assistance from
12 counsel in collecting documents in response to
13 plaintiff's first set of document requests?

14 A. Wait, didn't you just ask me that?
15 I missed the difference from the question
16 before.

17 Q. Sure. So the question I asked
18 before related to the formal written responses
19 regarding plaintiff's document requests. And
20 now I'm asking as far as collecting documents
21 in response to those document requests, did
22 you receive assistance from counsel?

23 A. No.

24 Q. During the time that you were
25 representing yourself pro se in this

1 S. Hoiland

2 litigation did you pay any attorney fees to
3 Davis & Gilbert?

4 A. Yes.

5 Q. And why was that? Because they
6 were providing you with legal services?

7 A. Yes.

8 Q. At some point during the time when
9 you were representing yourself pro se in this
10 litigation did Davis & Gilbert stop charging
11 you attorneys' fees?

12 A. No.

13 Q. Have you paid all attorneys' fees
14 incurred during the course of this litigation?

15 ATTORNEY ZOLOT: Objection;

16 relevance.

17 A. Can you go back to your last
18 question? Did you ask if they stopped
19 charging me when I was pro se?

20 Q. Yes, I did ask that question. I
21 might have phrased it slightly differently.
22 But yes, I did ask that question.

23 A. So the answer to that is yes. I
24 just wanted to -- I thought maybe I misheard
25 you.

1 S. Hoiland

2 Q. I'm sorry. I believe that your
3 testimony before was no, they did not stop
4 charging you. Let's back up a bit.

5 Was there a point in time when
6 Davis & Gilbert stopped charging you
7 attorneys' fees during this litigation?

8 A. At the time when they became my
9 official representation, then the charges
10 stopped.

11 Q. But prior to that, when
12 representing yourself pro se, you were being
13 charged attorneys' fees, is that correct?

14 A. Yes.

15 Q. And just to be clear. Since the
16 time that Davis & Gilbert has entered an
17 appearance in this action, you have not been
18 charged any attorneys' fees?

19 A. As far as I know, the answer is no.
20 But that's relatively recent, so I don't -- I
21 don't know when the last billing cycle ends
22 and the next one begins.

23 Q. Since the time that Davis & Gilbert
24 entered an appearance in this action have you
25 incurred any attorneys' fees from Davis &

1 S. Hoiland

2 Gilbert?

3 A. I am not sure. We would have to
4 check with the accountant here. I have not
5 received any invoices of amounts due.

6 Q. Is it your understanding that Davis
7 & Gilbert has represented to the court in this
8 litigation that they are representing you on a
9 pro bono basis?

10 A. Yes.

11 Q. And is it a truthful statement to
12 say that Davis & Gilbert is representing you
13 on a pro bono basis?

14 A. Yes. My understanding is part of
15 that agreement is that there are fees that can
16 be incurred.

17 Q. And do those fees relate to
18 attorney services?

19 ATTORNEY ZOLOT: Sandra, where is
20 this line of questioning going? You're
21 tripping her up with fees and costs and
22 asking her about pro bono
23 representation. What's your point here?

24 ATTORNEY HUDAK: I am just asking
25 about representations that were made to

1 S. Hoiland

2 the court in this case.

3 ATTORNEY ZOLOT: Right. That
4 counsel prepared, and counsel made to
5 the court. So you're asking her --

6 ATTORNEY HUDAK: The defendant
7 in --

8 ATTORNEY ZOLOT: You are asking the
9 witness whether she -- whether she's
10 being charged for fees. Fees, costs,
11 mean different things. So I think
12 you're trying to confuse her and
13 you're --

14 ATTORNEY HUDAK: Yes, I'm trying
15 to understand --

16 (Multiple speakers)

17 ATTORNEY ZOLOT: -- going to try
18 to --

19 (Multiple speakers.)

20 ATTORNEY HUDAK: That's uncalled
21 for. I'm just trying to understand
22 representations that were made to the
23 court.

24 ATTORNEY ZOLOT: By her attorneys.

25 ATTORNEY HUDAK: On her behalf.

1 S. Hoiland

2 ATTORNEY ZOLOT: By her attorneys.

3 I'll stick with that.

4 ATTORNEY HUDAK: All right.

5 A. So I don't know what my attorneys
6 have --

7 ATTORNEY HUDAK: Can the court
8 reporter read back the last question.

9 THE COURT REPORTER: Did you ask me
10 to read back the last question?

11 ATTORNEY HUDAK: Yes, I was trying
12 to understand where we left off before
13 that aside.

14 (The reporter read back as follows:

15 "Question: And do those fees
16 relate to attorney services?")

17 THE COURT REPORTER: And then we
18 had some colloquy.

19 ATTORNEY ZOLOT: Objection. I'm
20 going to again instruct my witness not
21 to answer these questions about the
22 nature of her legal representation with
23 our firm.

24 ATTORNEY HUDAK: I am asking about
25 fees, and defendant made a

1 S. Hoiland

2 representation to the court that she was
3 being represented on a pro bono basis,
4 and so I'm just trying to --

5 ATTORNEY ZOLOT: Right.

6 ATTORNEY HUDAK: -- understand the
7 nature of that statement.

8 ATTORNEY ZOLOT: Right. And she
9 already testified that she hasn't
10 received a bill for fees since she's
11 been represented by counsel on a
12 pro bono basis. So --

13 ATTORNEY HUDAK: And she was unsure
14 if she was going to be billed. So
15 that's where the follow-up questions are
16 coming from.

17 ATTORNEY ZOLOT: So then how could
18 you ask her some hypothetical question
19 about whether she knows what's in the
20 future when she's being represented on a
21 pro bono basis under the guise that --

22 ATTORNEY HUDAK: You know that
23 invoices take a month to go out. So I'm
24 just asking about that. There's a
25 timeline.

1 S. Hoiland

2 ATTORNEY ZOLOT: She was being
3 represented on a pro bono basis. What
4 is the point of this line of
5 questioning?

6 ATTORNEY HUDAK: I am just trying
7 to get a basis for that statement.

8 ATTORNEY ZOLOT: It is so
9 irrelevant and it's improper. So I'm
10 cutting it off. That's it.

11 ATTORNEY HUDAK: So are you
12 instructing your witness not to answer?

13 ATTORNEY ZOLOT: Yeah. Like I have
14 for the last five minutes.

15 ATTORNEY HUDAK: And on what basis
16 are you instructing her not to answer?

17 ATTORNEY ZOLOT: On the basis that
18 the nature of her legal representation
19 with counsel is not relevant to the
20 litigation and --

21 ATTORNEY HUDAK: You can't
22 object -- or you can't instruct a
23 witness not to answer based on
24 relevance.

25 ATTORNEY ZOLOT: Based on

1 S. Hoiland

2 confidentiality. Based on

3 attorney-client privilege.

4 ATTORNEY HUDAK: What is the

5 attorney-client privilege that you're

6 alleging here?

7 ATTORNEY ZOLOT: Sandra --

8 ATTORNEY HUDAK: What's the

9 attorney-client privilege that you're

10 alleging here?

11 ATTORNEY ZOLOT: What goes into the

12 nature of the representation.

13 ATTORNEY HUDAK: I am asking about

14 fees. Not about any legal advice.

15 ATTORNEY ZOLOT: And she has

16 testified now numerous times that she

17 has not received a bill for fees from

18 our firm since we have taken on her

19 representation pro bono.

20 ATTORNEY HUDAK: And she said that

21 she didn't know if she was going to

22 receive a --

23 ATTORNEY ZOLOT: Okay.

24 ATTORNEY HUDAK: -- bill for recent

25 activity. So that's what I am trying to

1 S. Hoiland

2 get at here.

3 ATTORNEY ZOLOT: So she doesn't
4 know. So what are you asking? Whether
5 she doesn't know something else?

6 ATTORNEY HUDAK: I was trying to --

7 ATTORNEY ZOLOT: The nature of her
8 not knowing it? This is ridiculous.

9 ATTORNEY HUDAK: Can the court
10 reporter read back the last two
11 questions and answers, please.

12 (The reporter read back as follows:

13 "Question: And is it a truthful
14 statement to say that Davis & Gilbert is
15 representing you on a pro bono basis?")

16 (The reporter read back as follows:

17 "Answer: Yes. My understanding is
18 part of that agreement is that there are
19 fees that can be incurred.")

20 Q. So a question is pending. I
21 believe that your counsel may be instructing
22 you not to answer. I'm not sure if she is
23 maintaining that after the read back.

24 ATTORNEY HUDAK: Is there an
25 objection?

1 S. Hoiland

2 ATTORNEY ZOLOT: I'll object that
3 it calls for speculation. I'll instruct
4 my witness not to answer something if
5 she does not know the answer to your
6 question.

7 ATTORNEY HUDAK: Are you
8 instructing your witness not to answer
9 or just not to speculate?

10 ATTORNEY ZOLOT: I'll instruct her
11 not to answer.

12 ATTORNEY HUDAK: On the basis of
13 attorney-client privilege?

14 ATTORNEY ZOLOT: Yes.

15 Q. Dr. Hoiland, is it your
16 understanding that your counsel will be
17 representing you on a pro bono basis for the
18 continuation of the litigation?

19 ATTORNEY ZOLOT: Objection; calls
20 for speculation. But you can answer.

21 A. I don't know.

22 Q. I am not asking about the contents
23 of any agreement but is there an agreement in
24 place with your attorneys regarding the fees
25 being incurred in this matter?

1 S. Hoiland

2 A. Yes.

3 Q. And do you have an understanding of
4 the contents of that agreement?

5 A. I have a basic understanding.

6 Q. And is it still your testimony that
7 you don't know if plaintiff -- if counsel will
8 be representing you on a --

9 ATTORNEY HUDAK: Let me strike
10 that.

11 Q. With an understanding of the
12 agreement with your attorneys, it's your
13 position that you don't know if your counsel
14 will be representing you on a pro bono basis
15 for the remainder of this litigation?

16 A. I don't know.

17 Q. Have you communicated with anybody
18 at NSF, the National Science Foundation, about
19 this litigation?

20 A. Yes.

21 Q. And who have you communicated with?

22 A. So I reached out to my program
23 officer on my current project and my previous
24 program officer from the NICE project.

25 Q. What are the names of those two

1 S. Hoiland

2 individuals?

3 A. Michael Davis and Karen Keene.

4 Q. Have you produced all of the
5 communications that you had with these two
6 individuals about this litigation?

7 A. Yes.

8 Q. Are there any other individuals
9 that you spoke with -- (audiovisual
10 interruption)

11 THE WITNESS: We lost you.

12 Q. -- at the National Science
13 Foundation about this litigation?

14 ATTORNEY HUDAK: Am I unfrozen now?

15 Can you hear me now?

16 THE WITNESS: Yes.

17 Q. I was just asking if there is
18 anybody else that you didn't mention other
19 than the two individuals that you just
20 mentioned, Michael Davis and Karen Keene?

21 A. So Dr. Keene forwarded my email to
22 other individuals at NSF, and their names are
23 on the documents I produced.

24 Q. Anybody else at NSF that you know
25 of, that you've communicated with about this

1 S. Hoiland

2 litigation?

3 A. No.

4 Q. Have you communicated with anyone
5 at the National Numeracy Network about this
6 litigation?

7 A. No.

8 Q. Have you communicated with anybody
9 at ASA about this litigation?

10 A. Yes.

11 Q. Who have you communicated with?

12 A. Nancy Kidd. And she cc'd, her name
13 is escaping me right now. So Nancy Kidd was
14 going on personal leave and so she cc'd the
15 person who would be taking her place while she
16 was away, who was like the vice executive
17 director. Margaret Vitullo.

18 Q. Have you communicated with anybody
19 else at ASA about this litigation?

20 A. No.

21 Q. When was the last time that you
22 communicated with Nancy Kidd about this
23 litigation?

24 A. I believe it was February or March.

25 Q. Of this year?

1 S. Hoiland

2 A. Correct.

3 Q. And have you produced all written
4 communications with Nancy Kidd about this
5 litigation?

6 A. Yes. I think you asked me that.

7 Q. Have you communicated with anyone
8 else other than your attorneys about this
9 litigation?

10 A. With anyone else other than my
11 attorneys and the NSF and the ASA?

12 Q. Yes.

13 A. Are you including family?

14 Q. We can exclude family. Any third
15 parties.

16 A. So I believe I listed them all in
17 the interrogatory. I have some very close
18 friends who are also faculty at CUNY. They're
19 aware of the current litigation. I informed
20 my department chair. And since the -- I don't
21 know if he informed our college president or
22 if I did, but she's aware of the current
23 litigation.

24 And I also -- I reached out to John
25 Tsapogas at the research foundation, asking

1 S. Hoiland

2 whether I should involve NSF at this time.

3 Q. Anybody else that you can recall?

4 A. My unit coordinator who is my
5 direct report.

6 Q. Anybody else?

7 A. I don't think so.

8 ATTORNEY HUDAK: I want to share a
9 document. Do you see that I've shared a
10 document on the screen?

11 A. Yes, I do.

12 Q. This document was produced by
13 defendant in this action with Bates stamps
14 D 352 through D 354. I would like to mark
15 this as exhibit 22.

16 ---

17 (Exhibit 22, email, Bates D0352
18 through D 354 was marked for
19 identification)

20 ---

21 Q. Do you recognize this document?

22 A. Yes, I do.

23 Q. What do you recognize this document
24 to be?

25 A. This is an email between myself and

1 S. Hoiland

2 Dr. Yoel Rodriguez.

3 Q. And generally what is the subject
4 matter of this email chain?

5 A. Well, the title of it is "RIO
6 Matter," which is research integrity officer.

7 ATTORNEY ZOLOT: If you need her to
8 scroll through to show her the whole
9 email.

10 ATTORNEY HUDAK: Sure. Let me know
11 when you would like me to scroll through
12 to the next page.

13 ATTORNEY ZOLOT: Doesn't it start
14 at the bottom?

15 ATTORNEY HUDAK: Oh, sure. Let me
16 know how you would like to review it.

17 Would you like me to scroll to the
18 last page?

19 THE WITNESS: You can scroll past
20 the first one.

21 ATTORNEY HUDAK: All right. I'll
22 go to the second page. Let me know when
23 you need me to scroll.

24 THE WITNESS: Yes.

25 (Scrolling.)

1 S. Hoiland

2 THE WITNESS: Yes.

3 ATTORNEY HUDAK: I'll scroll to the
4 last page.

5 (Scrolling.)

6 THE WITNESS: Yes.

7 Q. So do you recall what this email
8 chain generally relates to?

9 A. Yes.

10 Q. And what is that?

11 A. Well, so the -- I'm asking him if
12 we can speak about whether or not I should
13 pursue something through ASA in conjunction
14 with this lawsuit.

15 Q. I will scroll to the second page of
16 the document and I'm looking at paragraph 4,
17 which is on page marked D 353. And it says:
18 "If the COPE committee finds my complaint to
19 have merit, there are specific actions they
20 can take, which I believe would, once and for
21 all, end this two-year ordeal."

22 Did I read that correctly?

23 A. Yes.

24 Q. And this is (undecipherable) is
25 that correct?

1 S. Hoiland

2 A. Yeah. You're cutting out but I
3 think I heard it.

4 THE COURT REPORTER: I'm sorry.

5 Could you repeat your last question
6 counsel?

7 ATTORNEY HUDAK: Sure. I read the
8 first sentence of the fourth paragraph
9 and then I asked the witness if this was
10 a statement made by her to Yoel
11 Rodriguez. And I believe the witness
12 answered yes.

13 A. Yes.

14 Q. And the next sentence says, "The
15 process is highly confidential but could
16 result in a formal letter of their findings
17 and determination being sent to CUNY as well
18 as a termination or suspension of Dr. Wilder's
19 membership in ASA."

20 Did I read that correctly?

21 A. Yes.

22 Q. Were you hoping that Dr. Wilder
23 would be terminated or suspended from ASA?

24 ATTORNEY ZOLOT: Object to form.

25 A. I was not hoping for any outcome

1 S. Hoiland

2 other than that there would be some resolution
3 to this matter, which is why I went to ASA in
4 the first place.

5 Q. This sentence specifically
6 discusses a potential termination or
7 suspension of Dr. Wilder's membership in ASA,
8 is that correct?

9 A. So it says it can result in. These
10 are the things that ASA can do.

11 Q. And that was one potential outcome?

12 A. As I'm reading it, it's more than
13 one potential outcome. There can be a formal
14 letter of their findings, and there can be
15 terminations or suspensions of membership.

16 Q. And so termination or suspension of
17 membership was a potential outcome?

18 A. Correct.

19 Q. I am going to take this exhibit
20 down.

21 (Pause.)

22 ATTORNEY HUDAK: Let's go off the
23 record and take a ten-minute break if
24 that's okay. I just need to look at my
25 notes to see if there's anything left.

1 S. Hoiland

2 ATTORNEY ZOLOT: Sure.

3 ---

4 (Recess from 6:38 to 6:53.)

5 ---

6 ATTORNEY HUDAK: Back on the
7 record?

8 THE COURT REPORTER: We're back on
9 the record.

10 ATTORNEY HUDAK: I just want to
11 share my screen again.

12 Q. Do you see that I have shared a
13 document on the screen?

14 A. Yes.

15 Q. And this is a document produced by
16 defendant in this case with Bates number D 275
17 through D 278.

18 ---

19 (Exhibit 23, email, Bates D0275
20 through 278 was marked for
21 identification)

22 ---

23 Q. Do you recognize this document?

24 A. Can you scroll down?

25 Q. Sure.

1 S. Hoiland

2 A. Yes.

3 Q. Would you like me to keep
4 scrolling?

5 A. Yes.

6 (The witness reviews document.)

7 A. Okay. Yes, I'm familiar.

8 Q. What do you recognize this document
9 to be?

10 A. This is an email communication
11 between myself and Nancy Kidd and Margaret
12 Vitullo.

13 Q. What's the general subject matter
14 of this email chain?

15 A. Can you scroll back up --

16 Q. Sure.

17 A. -- to the third page? So this was
18 about the summons I received and talking to
19 them about a COPE case, with the ASA.

20 Q. And the COPE case was related to
21 the dispute you were having with Dr. Wilder?

22 A. Yes.

23 Q. And this is the same COPE case that
24 we were discussing before in an email chain
25 with Nancy Kidd, is that correct?

S. Hoiland

A. No. So the basis I think and the tenor of it had changed from me asking for mediation and for ASA to weigh in and make some recommendations to settle the dispute prior to any of the litigation. That was the communication in 2019. This communication is in 2022 and it's related to me making an ethics complaint against Dr. Wilder.

Q. And is the COPE case that you are referencing in this email on page 3 of the document related to an ethics complaint that you wished to make against Dr. Wilder?

A. Yeah, so I did not make that ethics complaint, but in these set of emails we were discussing it.

Q. All right. And in this set of emails, the email that we're looking at on page 3 of the document which has Bates number D 277, there's an email dated February 11, 2022 from you to Nancy Kidd, is that correct?

A. Yes.

23 Q. And in the fourth paragraph you
24 say: "Thus, the COPE case is more important
25 than ever."

1 S. Hoiland

2 Did I read that correctly?

3 A. You cut out, but I believe so.

4 Q. All right. And the next sentence
5 says: "Also I was afraid a COPE case would
6 incense her more, so I held back, but since
7 she's filed a lawsuit anyway, I am ready."

8 Did I read that correctly?

9 A. Yes.

10 Q. And is the "her" and "she" that
11 you're referring to in this email Dr. Wilder?

12 A. Yes.

13 Q. And then the next sentence says:
14 "Feel free to relay this information to
15 Margaret Weigers Vitullo as I know she will be
16 coordinating this case. I will let my
17 attorney know this is in the works when I
18 speak to him again next week and ask him about
19 timing and whether the COPE case could prolong
20 the legal (fees) fight."

21 Did I read that correctly?

22 A. Yes.

23 Q. And then you go on to say: "In
24 that case, it might be better to hold off or
25 it might be better to do it right away and

1 S. Hoiland

2 perhaps this will end more quickly if she
3 realized her professional reputation could be
4 at stake."

5 Did I read that correctly?

6 A. Yes.

7 Q. And so what did you mean when you
8 said her professional reputation could be at
9 stake?

10 A. So the ethics claim, I think it's
11 copied and pasted on a different email, is
12 related to making frivolous or baseless or
13 complaints specifically designed to harm
14 another member of the ASA, which I believe
15 Dr. Wilder is doing.

16 Q. And by going forward with the COPE
17 case were you hoping that her professional
18 reputation would be at stake and be harmed?

19 ATTORNEY ZOLOT: Object to form.

20 A. No, I do not hope that her
21 professional reputation is harmed.

22 Q. And so why were you mentioning that
23 you thought that this will end more quickly if
24 she, Dr. Wilder, realized her professional
25 reputation could be at stake?

1 S. Hoiland

2 A. Well, a litigation is extremely
3 costly and it's not money that I have or that
4 am prepared to spend to fight over something
5 that I strongly felt like could have been
6 resolved within our professional association.

7 Q. So you thought that the threat of
8 filing a COPE case would motivate Dr. Wilder
9 in this litigation?

10 ATTORNEY ZOLOT: Objection;
11 mischaracterizes the testimony.

12 A. Again, I feel that COPE would have
13 been much better suited to handle the current
14 dispute, not copyright attorneys. COPE is
15 free. It's a service to members of the
16 organization. It's confidential. And they're
17 specifically there to work with faculty
18 surrounding issues like this.

19 Q. And again you mentioned in this
20 email that you thought this will end more
21 quickly if she realized her professional
22 reputation could be at stake. Why were you
23 mentioning Dr. Wilder's professional
24 reputation here?

25 ATTORNEY HUDAK: Objection; asked

1 S. Hoiland

2 and answered.

3 A. So as I said, I believe that she
4 did violate one of the ethical principles and
5 since she had been on the offensive for the
6 past almost three years at this point, I
7 thought that potentially if an outside body
8 that has knowledge of our professional ethics
9 was willing to weigh in and look at the
10 existing events that had transpired from 2019
11 all the way up until this email in February of
12 2022, that that might motivate Dr. Wilder to
13 stop.

14 Q. So you thought that filing a COPE
15 case would motivate Dr. Wilder to drop her
16 lawsuit, is that correct?

17 A. I didn't say drop the lawsuit. I
18 think that this could have very easily been
19 settled outside of the court system and it
20 wasn't. I think as a member of ASA I have a
21 right to COPE and to seek professional
22 guidance.

23 Q. And again this last sentence talks
24 about the litigation ending more quickly if
25 Dr. Wilder realized her professional

1 S. Hoiland

2 reputation could be at stake. And that is in
3 reference to the COPE case you were intending
4 to file, is that correct?

5 ATTORNEY ZOLOT: Objection;

6 mischaracterizes the testimony.

7 A. Can you ask the question again? I
8 feel like you've asked the same thing over and
9 over and maybe I'm not hearing you correctly.

10 Q. Possibly because you haven't
11 answered my question. So you make a reference
12 here to the litigation ending more quickly if
13 Dr. Wilder realized her professional
14 reputation could be at stake. And you make
15 this in reference to your discussion of the
16 COPE case. Is that correct?

17 A. Yes.

18 Q. So you thought by filing the COPE
19 case the litigation would end more quickly
20 because Dr. Wilder's professional reputation
21 could be at stake, is that correct?

22 A. That's what I wrote in the email.
23 I believe she's put her own professional
24 reputation at stake by the action she's taken
25 since 2019.

1 S. Hoiland

2 Q. And you thought that the COPE case
3 would cause the litigation to end more quickly
4 because it would potentially impact her
5 professional reputation, is that correct?

6 ATTORNEY ZOLOT: Objection; asked
7 and answered.

8 ATTORNEY HUDAQ: It's not been
9 answered.

10 A. So again I think that the ethics
11 case and the specific thing that Dr. Wilder
12 has been doing clearly violates the ASA code
13 of ethics. And I had been on defense and the
14 defendant and being the person asked the
15 question since 2019, and so putting this in
16 front of COPE would level the playing field to
17 some extent in a way that it has not been and
18 only recently has been.

19 Q. Because it would threaten
20 Dr. Wilder's professional reputation?

21 ATTORNEY ZOLOT: Objection;
22 mischaracterizes the testimony.

23 A. So this entire thing from beginning
24 to end has threatened both of our professional
25 reputations.

1 S. Hoiland

2 Q. That doesn't answer the question.

3 So again you're talking about the COPE case in
4 this paragraph of the email, is that correct?

5 A. Yes.

6 Q. And then you reference the filing
7 the COPE case perhaps will cause the
8 litigation to end more quickly. Is that
9 correct?

10 A. Yes, that's correct.

11 Q. And that's because the filing of
12 the COPE case would put Dr. Wilder's
13 professional reputation at stake, correct?

14 A. You're reading my email, so I can
15 say yes. You're reading my email.

16 Q. And did you ultimately file the
17 COPE case that was mentioned in this email?

18 A. I already testified that I did not.

19 Q. And why was that?

20 A. So I believe it falls under
21 attorney-client privilege.

22 ATTORNEY HUDAK: I am going to take
23 this document down. I am going to put
24 up a new document. Do you see that I've
25 shared a different document on the

1 S. Hoiland

2 screen?

3 THE WITNESS: Yes.

4 ATTORNEY HUDAK: This is
5 Plaintiff's First Set of Interrogatories
6 to Defendant in this litigation. I'll
7 mark this as exhibit 24.

8 ---

9 (Exhibit 24, Plaintiff's First Set
10 of Interrogatories to Defendant was
11 marked for identification)

12 ---

13 Q. Do you recognize this document?

14 A. Yes.

15 Q. And do you recognize it to be
16 Plaintiff's First Set of Interrogatories to
17 Defendant in this litigation?

18 A. Yes.

19 Q. And I've scrolled to the second
20 page. I'm looking at interrogatory No. 8,
21 which asks defendant to "Identify each person
22 with whom you have communicated about your
23 CCCLA presentation."

24 Did I read that correctly?

25 A. Yes.

1 S. Hoiland

2 Q. And do you understand the "CCCLA
3 presentation" referred to here as being the
4 CCLA PowerPoint that we've been discussing
5 today?

6 A. Yes.

7 Q. I am going to take that down and
8 put up a new document. Do you see the new
9 document on the screen?

10 A. Yes.

11 ATTORNEY HUDAK: And this is
12 Defendant's Responses to Plaintiff's
13 First Set of Interrogatories that was
14 served in this case. I'll mark this as
15 exhibit 25.

16 ---

17 (Exhibit 25, Defendant's Responses
18 to Plaintiff's First Set of
19 Interrogatories was marked for
20 identification)

21 ---

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. And do you recognize it to be
25 Defendant's Responses to Plaintiff's First Set

1 S. Hoiland

2 Interrogatories?

3 A. Yes.

4 Q. And I've scrolled to page 2. Do
5 you see on this page where it says
6 interrogatory No. 8, and then it lists a
7 number of names and organizations?

8 A. Yes.

9 Q. And that list extends on to page 4?

10 A. Yes.

11 Q. Scrolling back to page 2. I'll
12 give you time to review if you need. But does
13 this list of individuals represent all persons
14 you've had communications with regarding the
15 CCLA PowerPoint?

16 A. So I don't see the research
17 integrity officer from Lehman.

18 ATTORNEY ZOLOT: You have to go to
19 the other pages, Sandra. If you're
20 asking about --

21 ATTORNEY HUDA: Yes, I asked the
22 witness to let me know if she needs me
23 to scroll.

24 A. You can scroll down. Oh, there he
25 is.

1 S. Hoiland

2 Q. And there's potentially more on the
3 next page. It might just be an address.

4 A. Okay.

5 Q. Scroll to the next page?

6 A. Yes.

7 Q. So does this list represent all
8 individuals you've communicated with regarding
9 the CCLA PowerPoint?

10 A. Well, can you scroll up again?

11 Q. Sure. I'm scrolling back to the
12 beginning. Let me know if you need me to
13 scroll down.

14 A. Okay.

15 Q. Scroll?

16 A. Yep. So I see Margaret Vitullo's
17 name is not here. And Nancy Kidd had
18 forwarded my email to her. I don't know, this
19 looks like a pretty exhaustive list to me.

20 Q. So you don't recall having
21 communications with any other individuals that
22 are not listed in response to interrogatory
23 No. 8, other than Margaret Vitullo who you
24 mentioned?

25 A. Nothing comes to mind that is not

1 S. Hoiland

2 here.

3 Q. And have you produced all
4 communications with the individuals listed in
5 response to interrogatory No. 8 regarding this
6 litigation?

7 A. Yes, I believe so.

8 ATTORNEY HUDAK: I'll take that
9 document down.

10 Q. I believe you testified earlier
11 that you observed the entirety of the
12 deposition of Dr. Wilder in this litigation,
13 is that correct?

14 A. Yes.

15 Q. And do you have any comments on the
16 testimony given during that deposition?

17 ATTORNEY ZOLOT: Objection; vague.

18 A. I'm not going to make any comments
19 about someone else's statements, no.

20 ATTORNEY HUDAK: All right. No
21 further questions at this time. Thank
22 you for your time, Dr. Hoiland.

23 THE WITNESS: Thank you.

24 THE COURT REPORTER: Counsel, do
25 you have any questions?

1 S. Hoiland

2 ATTORNEY ZOLOT: No questions from
3 us.

4 ---

5 (Time noted: 7:16 p.m. EDT)

6
7 _____
8 SARAH HOILAND

9
10 Sworn and subscribed to before
11 me this _____ day
12 of _____, 2022,
13 in the jurisdiction aforesaid.

14
15 _____
16 NOTARY PUBLIC

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1

2 C E R T I F I C A T E

3 STATE OF NEW YORK)

4 COUNTY OF NEW YORK)

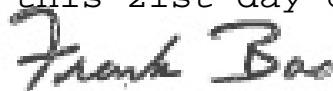
5 I, FRANK J. BAS, a Certified
6 Shorthand Reporter and Notary Public within
7 and for the State of New York, do hereby
8 certify:

9 That the witness whose testimony is
10 hereinbefore set forth, was duly sworn by me
11 and that such testimony given by the witness
12 was taken down stenographically by me and then
13 transcribed.

14 I further certify that I am not
15 related by blood or marriage, to any of the
16 parties in this matter and that I am in no way
17 interested in the outcome of this matter.

18 That any copy of this transcript
19 obtained from a source other than the court
20 reporting firm, including from co-counsel, is
21 uncertified and may not be used at trial.

22 IN WITNESS WHEREOF, I have hereunto
23 set my hand this 21st day of December, 2022.

24 

25 FRANK J. BAS, RPR, CRR

1
2 ----- I N D E X -----
3

4 WITNESS EXAMINATION BY PAGE
5 SARAH HOILAND MS. HUDAK 5
6

7 ----- EXHIBITS-----
8 (Exhibits remotely introduced and provided
9 electronically to the court reporter.)
10

11 EXHIBIT DESCRIPTION PAGE
12 Exhibit 1, email, Bates number 66
13 D0023 through D0024
14 Exhibit 2, PowerPoint, Bates D0234 84
15 through D0256
16 Exhibit 3, NICE webpage 86
17 Exhibit 4, PDF page of NICHE/NICE 101
18 hyperlink
19 Exhibit 5, NICHE hyperlink 102
20 Exhibit 6, PowerPoint, Bates 104
21 P000665
22 Exhibit 7, Presentation Proposal - 108
23 the Community College Conference on
24 Learning Assessment, Bates D0001
through 03
25 Exhibit 8, Intellectual property 111
license and photo release, Bates
D0004
Exhibit 9, email chain, Bates D0301 121
through D0304
Exhibit 10, email, Bates D0041 128
through 42
Exhibit 11, email, Bates D0009 138
through 12

1	----- EXHIBITS CONTINUED -----	
3	Exhibit 12, email, Bates P0000553 through 558	145
4	Exhibit 13, Responses and Objections to Plaintiff's Second Set of Interrogatories to Defendant	154
6	Exhibit 14, preliminary inquiry report, Bates D0069 through 72	161
8	Exhibit 15, academic integrity policy Bates P000649 through 654	180
9	Exhibit 16, American Sociological Association's Code of Ethics, Bates P000273 to 293	182
11	Exhibit 17, screenshot, Bates P000294 through 298	184
13	Exhibit 18, email, Bates P000428 through P 429	187
14	Exhibit 19, Exhibit 1 to the complaint	191
16	Exhibit 20, Answer to Complaint	203
17	Exhibit 21, project description, Bates D0486 through 500	239
18	Exhibit 22, email, Bates D0352 through D 354	260
20	Exhibit 23, email, Bates D0275 through 278	265
21	Exhibit 24, Plaintiff's First Set of Interrogatories to Defendant	275
23	Exhibit 25, Defendant's Responses to Plaintiff's First Set of Interrogatories	276
25		

1
2 DIRECTIONS NOT TO ANSWER

3 Page/Line

4 242/2; 248/17

5
6 REQUESTS

7 Page/Line

8 233/20; 242/12

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1

ERRATA SHEET

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg.	6 No.	7 Now Reads	8 Should Read	9 Reason
6	—	—	—	—
7	—	—	—	—
8	—	—	—	—
9	—	—	—	—
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11	—	—	—	—
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22 Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME
23 THIS ____ DAY OF _____, 2022.

24 _____

25 (Notary Public) MY COMMISSION EXPIRES: _____